

RICARDO B. LAPID IN BEHALF OF ARIEL LAPID, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, PHIL HANSE SHIP AGENCY, INC., AND MALAYAN INSURANCE COMPANY, RESPONDENTS.

G.R. No. 117518. April 29, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ARIEL LAPID, son of petitioner Ricardo B. Lapid, was a seaman on board the vessel M/V Cast Muskox. On 13 August 1991, at around 4:30 in the afternoon, his lifeless body was found hanging by the neck from the ceiling of an abandoned warehouse in Quebec, Canada. Dr. Claude Paquin of the Coroner's Office was called to conduct an autopsy on the cadaver as he did. The examination yielded the following information: that Ariel Lapid, born on 11 December 1967, died on 13 August 1991 at 1:00 o'clock p.m.; place of death was Montreal, P.Q., Canada; probable cause of death was asphyxiation by hanging; and, circumstance of death was following self-destruction. Dr. Paquin certified that the information he gave was "final and shall appear in my (his) investigation report which shall be completed upon receipt of all necessary or useful documents and facts." [1] On the basis of the Coroner's Report, petitioner Ricardo B. Lapid was informed by respondent Phil Hanse Ship Agency, Inc., (PHIL HANSE) that his son Ariel took his own life.

On 29 August 1991 Ariel's remains arrived in Manila. Petitioner immediately noted that Ariel's body bore several bruises. Consequently, together with his relatives, they sought the assistance of the National Bureau Investigation (NBI) and submitted the cadaver for post mortem examination. The NBI came up with the following post mortem findings [2]-

Abrasions, elbow, left, postero-medial aspect, 2.5 x 1.5 cm., postero-lateral aspect, 2.5 x 0.4 cm; contusions, forehead, right side, 5.5 x 5.0 cm., scalp, parietal region, left side, 3.0 x 1.5 cm; ligature marks, 34.5 cm. long, widest at 2.0 cm. and narrowest at 0.5 cm., running all around the neck, crossing anteriorly just above the thyroid cartilage, with the left extremity terminating at the left postero-lateral aspect along the hairline at a point 2.3 cm. behind the 0.5 cm. below the left external auditory (illegible) and with the right extremity going beyond the posterior median line to the left and terminating along the hairline at a point 9.0 cm. behind and 1.0 cm. below the left external auditory (illegible); hematoma, interstitial neck, just below the ligature marks and on the hypopharynx; trachea showed extensive hematoma at the hypopharynx and at the level of the thyroid cartilage first and second tracheal rings; heart, markedly congested, with multiple epicardial petechial hemorrhages on the anterior ventricular wall; lungs, markedly congested, multiple sub-leural petechial hemorrhages scattered on both anterior lung surfaces; brain and other veceral organs, markedly congested; stomach, about one-fourth full of bright red fluid. CAUSE OF DEATH: "ASPHYXIA BY HANGING."

Considering that the NBI report disclosed the presence of abrasions on the elbow, contusions on the forehead, hematoma and ligature marks on the neck of Ariel and that these findings were all inconsistent with suicide, petitioner filed a claim with the Philippine Overseas Employment Agency (POEA) asserting that his son was a

victim of foul play abroad in the course of his overseas employment.[3]

Prior to his death, Ariel was employed for one year as steward on board the vessel M/V Cast Muskoxy by PHIL HANSE which represented Atlantic Marine Ltd. His intention to work overseas was noble as it was both wistful and wishful. Being the eldest of seven children, he wanted to help his siblings go to school, build a home for the family and start a business of his own.

He left for Canada on 13 September 1990 and was scheduled to return to Manila after the expiration of his contract in August 1991. On 8 August 1991 or before his scheduled homecoming, Ariel together with his co-employees went to the Seafarer's Centre, an establishment open to seaman, for recreational purposes. He contacted someone in the Philippines by phone and thereafter announced to everyone that he was going shopping. He did not return to the Centre at the appointed hour and so his co-workers and friends returned to the vessel without him. The vessel eventually sailed on without Ariel. Five (5) days later or on 13 August 1996 his corpse was found hanging in an abandoned warehouse in Quebec.

Asserting that his son could not have committed suicide petitioner raised the following arguments: (1) Per NBI report Ariel had abrasions on the elbow, contusions on his forehead and hematoma on the neck, evidently showing physical abuse or assault hence contradictory to suicide; (2) There was constant exchange of letters between Ariel and his family and he seemed excited to go home and did not appear that he had any serious personal or professional problem; (3) The declaration that suicide was committed by Ariel was merely based on a partial and incomplete report of the coroner; and, (4) Ariel's employer while having the resources and means to cause a more thorough investigation in Canada did not do so.

Respondent PHIL HANSE, in support of its position that Ariel took his own life, advanced these arguments: (1) Ariel was experiencing financial pressures from his family as recounted by his co-workers and friends thus resulting in his loss of appetite; (2) The coroner's report expressly stated that the probable cause of death was asphyxiation by hanging, the circumstance of death followed self-destruction, and that all information included in such report was final; (3) The result of the investigation conducted by Justin Saldanha, Manager of the Claims and Investigation Division, Shipowners Assurance Management Limited, in Montreal, Canada, after the filing of the case with the POEA was that Ariel Committed suicide based on declarations of people who last saw him alive;[4] (4) Had Ariel been the victim of foul play the \$2,000.00 which was found in his pocket would have been taken by the perpetrators; (5) The non-related marks on his body might have been sustained because his body flailed about as he hanged himself to take his own life, or these could have been caused by self-flagellation due to a self-loathing behavior of a severely depressed or suicidal person, or also by the ordinary everyday physical rigors of his life as a steward on board a vessel; and, (6) The NBI finding of hematoma in the neck just below the ligature marks and on the hypopharynx was in fact consistent with suicide.

The POEA Administrator ruled that the pieces of evidence adduced substantially proved that suicide was committed. In its 5 August 1993 decision,[5] POEA stated that "[a]s between complainant's mere allegations and presumptions and the respondent's presentation of concrete evidence such as the Coroner's report, we are inclined to give more weight to the latter." POEA further held that "[w]hile our sympathy goes to the complainant, we cannot do otherwise but dismiss the claim in the face of the solid evidence presented by the respondents."

On appeal, NLRC on 29 June 1994 affirmed the assailed ruling of the POEA Administrator.[6] Apparently, both labor bodies anchored their conclusion that suicide was committed on the fact that Ariel's \$2,000.00 remained intact in his pocket when his body was found and that based on the report of Coroner Paquin, death was caused by asphyxia by hanging. In so sustaining the POEA Administrator, NLRC ruled that "[b]y and large, complainant has not adduced evidence, either at the proceeding before the POEA or here on appeal, persuasive enough for Us to

veer away from the findings made by the POEA Administrator. Hence, We affirm."

However, while the NLRC sustained the ruling of the POEA Administrator, Presiding Commissioner Edna Bonto-Perez manifested a strong dissent[7]-

x x x x it is clear that said report (coroner's) is partial and a final investigative report shall yet have to be made, as soon as the investigation gathers all the necessary documents containing the facts and particulars of Ariel's death. Absence of vital details and information relative thereto casts suspicion in the accuracy of said report, especially in the light of the findings of the NBI that the deceased seaman, at the time of his death suffered abrasions, contusions and hematoma on several parts of his body x x x x It would be unjust and unfair to rely mainly on an incomplete investigation submitted by respondents in the light of the contradicting findings of the NBI.

Petitioner now comes to us disputing the ruling that Ariel committed suicide. This petition for certiorari is centered on the incompleteness and inadmissibility of the unauthenticated coroner's report and the variance between the coroner's report and the NBI findings. In its comment, PHIL HANSE maintains its position that the evidence it presented proved that Ariel had killed himself.

The Office of the Solicitor General (OSG), in lieu of comment, filed a manifestation asserting that Dr. Paquin's autopsy report was evidence only of the cause of death of Ariel, not of the circumstances of his death, and that neither was the presence of \$2,000.00 indicative that there was no foul play because the motive for the killing might not have been robbery. The OSG recommended that petitioner be awarded death benefits in view of the failure of respondent employer to satisfactorily prove that Ariel committed suicide as it relied only on the incomplete report of the coroner.[8]

The crux of this controversy is whether Ariel's death was caused by self-destruction or foul play. Under Sec. 6, par. 6, Part II of the POEA Standard Employment Contract for Filipino Seaman, it is unequivocally provided -

No compensation shall be payable in respect of any injury, incapacity, disability or death resulting from a willful act on his own life by the seaman, provided however that the employer can prove that such injury, incapacity, disability or death is directly attributable to the seaman.

Clearly, petitioner's entitlement to any death benefit depends on whether the evidence of PHIL HANSE suffices to prove that Ariel committed suicide, and the burden of proof rests on his employer. Although the disputed coroner's report was admitted by both the POEA Administrator and the NLRC, this piece of evidence is nevertheless discredited. First, it is not disputed that the report contained a finding that death was caused by asphyxia by hanging and that it could not be conclusive as to circumstances regarding Ariel's death. Second, the phrase "report shall be completed upon receipt of all necessary or useful documents and facts" stated in Dr. Paquin's report emphasizes the wanting attribute of the indeterminate report. Plainly, PHIL HANSE failed to ascertain the circumstances surrounding Ariel's death which it was its duty to undertake as Ariel's employer. Such willful neglect cannot but indicate to us that under the circumstances a thorough investigation would have yielded a result adverse to respondent employer.

The peculiar setting of this case brings to mind *NAESS Shipping Philippines, Inc. v. NLRC*[9] wherein the vessel's chief steward Pablo Dublin fatally stabbed the second cook during a quarrel while M/V DYVI Pacific was plying its sea route. The culprit ran to the deck from where he jumped or fell overboard. His body was never seen again and he was declared dead. This Court ruled that Dublin's death was compensable notwithstanding the claim that he committed suicide. Thus, in falling overboard, we held[10]-

x x x x it makes no difference whether Dublin intentionally took his own life, or he killed himself in a moment of temporary aberration triggered by remorse over the killing of a second cook, or he accidentally fell

overboard while trying to flee from imagined pursuit, which last possibility cannot be ruled out considering the state of evidence. It may be noted parenthetically that these conjectures sound equally plausible because the events surrounding the death of Dublin have not been established with certitude.

In the instant case, the evidence presented by PHIL HANSE to prove that suicide was committed is lean, frail and far from convincing. The coroner's incomplete report cannot be the basis of a categorical pronouncement that Ariel committed suicide. Respondent tried in vain to explain the other bruises of Ariel; however, its justifications that these bruises were caused by his flailing about after he hanged himself, or by acting in a self-loathing behavior, or by working as a steward were mere conjectures and could not gainsay that Ariel was a victim of foul play. Moreover, while hematoma just below the ligature mark on the neck may have been consistent with suicide, it is more accurately accordant with marks on a person who died by strangulation, whether he took his own life or not. Rather than prove that Ariel killed himself, it illuminated the chasm between the proof presented and the commission of suicide.

Respondent further attempted to show that Ariel committed suicide by presenting his co-employees to assert that the deceased was having a family problem which, on close scrutiny however, they could not identify. Apparently, the problem, if any, must have been so serious as to cause Ariel to take his own life. But this supposition was contradicted by his letters to his family showing his excitement to go home, and by the sworn declaration of one of his co-employees that Ariel went out specifically to buy luggage tapes,[11] again, proving his eagerness to go home. On these equivocal avowals, this Court is not prepared to rule that Ariel took his own life. The records are bereft of any substantial evidence showing that respondent employer successfully discharged its burden of proving that Ariel committed suicide, so as to evade its liability for death benefits under POEA's Standard Employment Contract for Filipino Seaman.

WHEREFORE, the 5 August 1993 decision of the Philippine Overseas Employment Administration and the 29 June 1994 decision of the National Labor Relations Commission denying petitioner's claim for death benefits are REVERSED and SET ASIDE. The records of this case are remanded to the Philippine Overseas Employment Administration for the computation of the death benefits to be awarded to petitioner Ricardo B. Lapid in behalf of his deceased son Ariel Lapid. Costs against respondents.

SO ORDERED.

Puno, Mendoza, Quisumbing, and Buena, JJ., concur.

* Composed of Second Division Presiding Commissioner Edna Bonto-Perez and Commissioners Victoriano Calaycay and Rogelio Rayala as Members.

[1] Original Records, p. 38.

[2] Id., p. 66.

[3] Id., p. 18.

[4] Id., pp. 93-100.

[5] Decision penned by POEA Administrator Felicisimo O. Josen, POEA Case No. 91-09-1004, Rollo, pp. 48-51.

[6] Decision penned by Commissioner Rogelio Rayala, concurred in by Commissioner Victoriano Calaycay with Presiding Commissioner Edna Bonto-Perez dissenting, NLRC Case No. 00585-93, id., pp. 29-36.

[7] Id., pp. 34-36.

[8] Id., pp. 94-107.

[9] G.R. No. 73441, 4 September 1987, 153 SCRA 657.

[10] Id., p. 662.

[11] Affidavit of Amelito V. Napao, steward on board M/V Cast Muskox, subscribed and sworn to in Mandaluyong, Metro Manila, on 2 December 1991; Original Records, p. 54.

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