

LEGAL HEIRS OF THE LATE EDWIN B. DEAUNA, REPRESENTED BY HIS WIFE, MRS. ARLINA DEAUNA, PETITIONERS, VS. FIL-STAR MARITIME CORPORATION, GREGORIO ORTEGA, CAPT. VICTOR S. MILLALOS A...

G.R. No. 191563. June 20, 2012

Ponente: REYES, J.

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REYES, J.:

Before us is a petition for review on certiorari,[1] under Rule 45 of the Rules of Court, filed by the legal heirs (collectively referred to as the petitioners) of the late Edwin Deauna (Edwin), represented by his wife, Arlina Deauna, to assail the Decision[2] dated July 15, 2009 and the Resolution[3] dated March 8, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 106199. The dispositive portion of the assailed decision reads:

WHEREFORE, premises considered, the assailed Decision dated 28 October 2008 of Voluntary Arbitrator Rene Ofreneo in AC 94-NCMB-NCR, is hereby, REVERSED and SET ASIDE, and a new one entered absolving the petitioner[s] [herein respondents] from liability for the death benefits under the terms and conditions of the POEA Contract and Article 29 pf (sic) the AMOSUP/JSU-CBA.

SO ORDERED. [4]

The assailed resolution denied the petitioners' motion for reconsideration.

Antecedent Facts

Respondent Fil-Star Maritime Corporation (Fil-Star) is a local manning agency, with respondent Captain Victor S. Millalos (Capt. Millalos) as its general manager. Respondent Grandslam Enterprise Corporation (Grandslam) is among Fil-Star's foreign principals. Grandslam owns and manages the vessel M/V Sanko Stream (Sanko) which Edwin boarded on August 1, 2004 for a nine-month engagement as Chief Engineer. As such, he was responsible for the operations and maintenance of the entire vessel's engineering equipment. He also determined the requirements for fuel, lube oil and other consumables necessary for a voyage, conducted inventory of spare parts, prepared the engine room for inspection by marine and safety authorities, and took charge of the engine room during maneuvering and emergency situations.

Prior to Edwin's deployment, he underwent the customary Pre-employment Medical Examination (PEME) and was found as "fit to work" as was repeatedly the case in the past 30 years since his first deployment by Fil-Star in 1975.

Sometime in October 2004, Edwin experienced abdominal pains while on-board Sanko. He was promptly referred to a doctor in Paranagua, Brazil. An ultrasound examination revealed that he had kidney stones for which he was administered oral medications. Thereafter, he resumed his work on-board Sanko.

On April 3, 2005 or more or less 8 months from deployment, Edwin was repatriated. There were, however,

conflicting claims regarding the cause of his repatriation. The respondents claimed that Edwin requested for an early termination of his contract in order to attend his daughter's graduation ceremony. On the other hand, the petitioners averred that Edwin was repatriated due to the latter's "body weakness and head heaviness".[5] The petitioners likewise claimed that on April 4, 2005, they called Capt. Millalos to inform the latter that upon arrival at the airport, Edwin was very sick, weak, disoriented, and merely wanted to immediately go home to Daet, Camarines Norte.[6] Edwin can neither physically report in Fil-Star's office nor board his next vessel of assignment.

On April 27, 2005, Dr. Eduardo R. Mercado (Dr. Mercado), a neurosurgeon at the Cardinal Santos Medical Center certified that:

Mr. Edwin Deauna, 52 years of age, is presently under my care at the Cardinal Santos Medical Center. He presented with (sic) behavioral changes associated with a left-sided facial and upper extremity weakness. An MRI of the brain done [on] April 26, 2005 showed a large right-sided brain tumor with involvement of his right temporal lobe, basal ganglia, corona radiata and insular cortex. There is associated severe swelling and shift (mass effect) to the opposite side. He is undergoing medical decompression to relieve pressure intracranially.

He will need stereotactic biopsy of his brain tumor for "grading purposes". Thereafter, treatment options will be discussed with family but I can predict that he will need radiation treatment as well as chemotherapy. This is necessary for palliation purposes and prolongation of life with good quality.[7] (Citation omitted)

The petitioners sent the respondents two letters requesting for the conduct of a medical examination and treatment of Edwin's brain tumor. The respondents averred that they provided Edwin with medical assistance for him to be able to promptly undergo a biopsy.

On May 4, 2005, Dr. Mercado found out from the pathology report that Edwin was suffering from "Glioblastoma WHO Grade 4" (GBM), a malignant and aggressive form of brain cancer. According to Dr. Mercado, "it is logical/safe to surmise that the tumor has been existent and progressively growing for a number of months".[8]

On May 13, 2005, the company-designated physician, Dr. Nicomedes G. Cruz (Dr. Cruz), opined that the "etiology of GBM is unknown". Further, Edwin's "illness is work-related if he has history of exposure to radiation, vinyl products and the likes and working in near proximity of power line, otherwise, it is not," and that "the tumor is already present even prior to embarkation but not detectable but (sic) ordinary PEME".[9]

On August 22, 2005, or about four months after Edwin's repatriation, Dr. Cruz sent Capt. Millalos a medical report stating that:

The patient was repatriated because of body weakness and head heaviness since October 2004. He had his consultation in Brazil, where he was evaluated to have "kidney stones" after undergoing ultrasound. Patient then finished his contract. At the airport, upon his arrival last April 03, 2005, he was noted to be drowsy and disoriented. On April 05, 2005, he was seen by a physician in Daet. CT Scan was done and he was diagnosed to have hypertension and neurologic disease. He was seen at the Cardinal Santos Hospital and on April 30, 2005, he underwent biopsy of the brain mass and the pathology report revealed Glioblastoma Multiforme. He has completed his 1st period of radiotherapy.

The MRI of the brain showed slight reduction in the size of the tumor. He has weakness of the left foot resulting to episodic foot drop. He also has facial edema secondary to steroid intake. He also complains of occasional doubling of vision but he has no headache.

Submitting to you the monthly expenses for his chemotherapy.

DIAGNOSIS:

Glioblastoma Multiforme

Advised to come back on September 23, 2005. [10]

The respondents claimed that out of compassion and intent to avoid legal battles, they extended to Edwin an allowance of US\$6,033.36. They also offered the payment of US\$60,000.00 disability benefits despite having no obligation to do so on their part as GBM can only be considered as work-related if a person who suffers therefrom had exposures to radiation or vinyl products, or had worked in the vicinity of power lines.[11] The respondents claimed that Edwin did not have such exposure while under their employ.

Two demand letters seeking disability benefits were thereafter sent by the petitioners to the respondents. The first, which was received by the respondents on November 21, 2005, sought the payment of US\$125,000.00 as allegedly provided under the International Bargaining Forum/Associated Marine Officers' and Seamen's Union of the Philippines/International Mariners Management Association of Japan Collective Bargaining Agreement (IBF/AMOSUP/IMMAJ CBA). The second letter, dated December 8, 2005, reiterated the petitioners' claims for disability benefits. The respondents replied that they had already aptly dealt with the illness under the respective employment agreement. Not long after, the petitioners again wrote the respondents informing the latter that Edwin's condition was already critical. Hence, the possibility that the claims for disability benefits would be converted to death benefits arose. The respondents denied the petitioners' demand.

In December 2005, a complaint for disability benefits, medical and transportation reimbursements, moral and exemplary damages and attorney's fees were filed before the National Labor Relations Commission (NLRC). Edwin died on April 13, 2006 during the pendency of the proceedings. He was substituted therein by the petitioners who sought the payment of death benefits.

After finding that there was an arbitration clause in the IBF/AMOSUP/IMMAJ CBA, the Labor Arbiter (LA) rendered a decision referring the complaint to voluntary arbitration. The case was thereafter docketed with the National Conciliation and Mediation Board (NCMB) as AC 94-NCMB-NCR-39-01-13-07.

On October 28, 2008, Voluntary Arbitrator Rene Ofreneo (VA Ofreneo), invoking the provisions of the Philippine Overseas Employment Administration Standard Employment Contract (POEA SEC) and the IBF/AMOSUP/IMMAJ CBA, awarded death benefits to the petitioners. VA Ofreneo ratiocinated that:

This Office has also taken cognizance of the following facts that were not questioned or contested by the parties: One, that EDWIN DEAUNA was under the employ of the same company for roughly 25 years due to repeated re-hiring from 1975 to 2005, and Two, that the RESPONDENTS made an earlier settlement offer of US\$60,000 as payment for disability benefits.

On the repatriation of EDWIN DEAUNA and the relationship of his ailment to his work as Chief Engineer of the vessel Sanko Stream, the medical report dated 22 August 2005 by the company physician, DR. NICOMEDES G. CRUZ, to CAPTAIN VICTORIO S. MILLALOS, General Manager of Fil-Star Maritime Corporation, does not need any other interpretation other than observation that EDWIN DEAUNA's health status had been deteriorating on board. x x x

x x x x

From the foregoing facts and circumstances, it is abundantly clear that the ailment of EDWIN DEAUNA was work-related and manifested while he was on board in his last sailing. This ailment developed and progressed in the course of his employment, that is, during the long and continuous service EDWIN DEAUNA rendered to the same manning company, which spanned a period of over 25 years. His repatriation, recorded as made upon his request, was clearly unavoidable given his rapidly deteriorating health situation as proven no less by the series of medical tests and treatment EDWIN DEAUNA was subjected to with the help of private and

Company physicians – and eventually by his death.[12]

The respondents filed with the CA a petition for review under Rule 43 of the Rules of Court to challenge VA Ofreneo's award. Before the CA could resolve the case, the petitioners filed a motion for execution[13] which was granted by VA Ofreneo over the respondents' vehement opposition.[14] Consequently, the respondents paid to the petitioners the sum of P5,603,026.00,[15] but the former manifested that their act was without prejudice to the outcome of the proceedings then pending with the CA.[16]

On July 15, 2009, the CA rendered the now assailed decision reversing VA Ofreneo's award based on the following grounds:

Under the Definition of Terms found in the Standard Contract, a work-related illness is defined as “any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied”. An illness not otherwise listed in Section 32-A is disputably presumed work-related.

Glioblastoma multiforme is the most aggressive of the gliomas, a collection of tumors arising from glia or their precursors within the central nervous system. Most glioblastoma tumors appear to be sporadic, without any genetic predisposition. No links have been found between glioblastoma and smoking, diet, cellular phones or electromagnetic fields. Recently, evidence for a viral cause has been discovered, possibly SV40 or cytomegalovirus. There also appears to be a small link between ionizing radiation and glioblastoma. Having one of the following genetic disorders is associated with an increased incidence of glomas: neurofibromatosis, tuberous sclerosis, Von Hippel-Lindau disease, Li-Fraumeni syndrome, turcot syndrome. These tumors manifest de novo, presenting after a short clinical history, usually less than 3 months.

The presumption was disproved by petitioner[s] [herein respondents] in its (sic) arguments. Petitioner[s] presented the expert medical opinion of its (sic) company-designated doctor, opining that the deceased seaman's Glioblastoma Multiforme was not work-related considering that he was never exposed to factors that would cause the same during his employment with the petitioners. While opinions of petitioner's (sic) doctor should not be given evidentiary weight as they are palpably self-serving and biased in favor of the former, and certainly could not be considered independent, respondent[s] has (sic) used the medical report of the very same physician to support their arguments, and is (sic) thus considered in estoppel.

Respondent's (sic) bare assertion, without any scientific or logical proof, that such employment of the deceased seaman in the vessel of the petitioner[s], is the cause of his illness and eventual death, cannot be upheld by this court. Under P.D. No. 626, if an ailment or sickness is not listed as an “occupational disease”, the claimant must prove that the risk of contracting the illness suffered was increased by his or her working conditions. The degree of proof required is “substantial evidence”. Jurisprudence defines “substantial evidence” as that amount of relevant evidence which a reasonable mind might accept as adequate to justify the conclusion. It provides that to establish compensability of a non-occupational disease, reasonable proof and not direct proof of a causal connection between the work and the ailment is required. To require proof of actual causes or factors which lead to the ailment would not be consistent with the liberal interpretation of the social justice guarantee in favor of workers.

Thus, death compensation benefits cannot be awarded unless there is substantial evidence showing that (a) the cause of Deauna's death was reasonably connected with his work; or (b) the sickness for which he died is an accepted occupational disease; or (c) his working conditions increased the risk of contracting the disease for which he died.

The deceased seaman's cause of death was not connected with his employment on board the vessel as a Chief Engineer. A Chief Engineer is someone qualified to oversee the entire engine department. He is also responsible for all operations and maintenance that has to do with any and all engineering equipment

throughout the entire ship. He also determines the fuel, lube oil, and other consumables required for a voyage; [r]equired inventory for spare parts, oversees fuel, lube and slop oil transfers, prepares the engine room for inspection by local marine/safety authorities, oversees all major maintenance; is required to be in the engine room during maneuvering operations, and is in charge of the engine room during emergency situations.

Glioblastoma Multiforme is not an accepted occupational disease of a Chief Engineer under the POEA-SEC, Art. 32-A. It does not arise from known occupational hazards, such as being a Chief Engineer as in this case, and its origin has not yet been pinpointed by any medical experts or organizations up to the present. Furthermore, to say that his earlier illness of kidney stones, even if such was proven to have been caused by the deceased seaman's occupation, lead to the development of the Glioblastoma Multiforme, which eventually caused his death, is stretching the facts too far. We are not medical experts to be able to connect such illness as the cause of GBM, which even the former has not yet discovered, and thus, warrant a new discovery in the field of medicine and grant the death benefits prayed for by the respondents.

Substantial evidence is more than a mere scintilla. The evidence must be real and substantial, and not merely apparent; for the duty to prove work-causation or work-aggravation imposed by law is real and not merely apparent. This Court finds that under the circumstances[,] respondents' bare allegations do not suffice to discharge the required quantum of proof of compensability. Awards of compensation cannot rest on speculations or presumptions, like the one made by herein respondents. The beneficiaries must present evidence to prove a positive proposition.

For the second argument, petitioner[s] argues (sic) that when the deceased seaman was repatriated on April 3, 2005, whether it is due to finished contract or for medical reasons, this will have the effect of terminating the employment of the said seaman. When the seaman died on April 16, 2006, he was no longer under the employment of the petitioners.

Petitioner[s] cited the case of *Gau Sheng v. Joaquin*, [through which] the Highest Tribunal ruled that in order to give effect to the benefits granted under the (sic) Memorandum Circular No. 41, Series of 1989, it must be shown that the employee died during the effectivity of the contract of employment.

We rule in the affirmative.

Art. 29 of the said IBF AMOSUP-JSU IMMAJ CBA provides, in part, that:

“If a seafarer dies of any cause whilst in the employment of the company including death from natural causes and death occurring whilst traveling to and from the vessel, or as a result of marine or other similar peril, but excluding death due to willful act, the Company shall pay the sums specified xxx to a nominated beneficiary and to each dependent child up to a maximum of four (4) under 21 years of age. The above compensation shall include those Seafarers who have been missing as a result of peril of the sea xxx and presumed to be dead three (3) months after the adversity xxx.”

It is clear from the above provision that in order to come under the operation of the said CBA agreement, it must be shown by the respondent[s] that the ailment must have been incurred while on the employment with the petitioner[s]. Respondent's (sic) contention that since the origin or cause of the illness was unknown, it is presumed to have been contracted during employment, is untenable. There is no such correlation between the two to give rise to such presumption. The issuance of a clean bill of health to the deceased seaman, made by the physicians selected/accredited by the petitioner[s] does not necessarily follow that the illness for which the former died of was acquired during his employment.

Stated differently, for death of a seafarer to be compensable, the death must occur during the term of his contract of employment. It is the only condition for compensability of a seafarer's death. Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable. By provision of Section 20

(A) of the POEA Standard Employment Contract, based on POEA Memorandum Circular No. 055, series of 1996, payment of death benefit pension is mandated in case of death of a seafarer during the term of his employment.

Section 20 (A) (1) and (4) (A, B and C) of the POEA Standard Employment Contract provides:

“Section 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

1. In case of death of the seafarer during the term of his contract, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.

xxx xxx xxx

4. The other liabilities of the employer when the seafarer dies as a result of injury or illness during the term of employment are as follows:

a. The employer shall pay the deceased's beneficiary all outstanding obligations due the seafarer under this Contract.

b. The employer shall transport the remains and personal effects of the seafarer to the Philippines at employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the master's best judgment. In all cases, the employer/master shall communicate with the manning agency to advice (sic) for disposition of seafarer's remains.

The employer shall pay the beneficiaries of the seafarer the Philippine currency equivalent to the amount of One Thousand US dollars (US\$1,000) for burial expenses at the exchange rate prevailing during the time of payment.”

This is a similar, if not exact, provision of the CBA aforementioned. The law demands the same requirements as it was in the latter. The death of a seaman during the term of employment makes the employer liable to his heirs for death compensation benefits. Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable. However, if the seaman dies after the termination of his contract of employment, his beneficiaries are not entitled to the death benefits enumerated above.

Finally, the Voluntary Arbitrator has erred in relying only on the medical report presented by the company physician Dr. Nicomedes G. Cruz in making his conclusion that the ailment of the deceased seaman was work-related and it manifested while he was on board of (sic) the vessel in his last sailing. He did not consider the other equally important points such as whether the death of the seaman was suffered during the term of his employment or that assuming arguendo, that he was indeed repatriated due to medical reasons, his death occurred after the term of his employment has already ceased.

That administrative quasi-judicial bodies like the Voluntary Arbitrator are not bound by technical rules of procedure in the adjudication of cases, does not mean that the basic rules on proving allegations should be entirely dispensed with. A party alleging a critical fact must still support his allegation with substantial evidence. Any decision based on unsubstantiated allegation cannot stand as it will offend due process. The liberality of procedure in administrative actions is subject to limitations imposed by basic requirements of due process. As this Court said in *Ang Tibay v. CIR*, the provision for flexibility in administrative procedure “does not go so far as to justify orders without a basis in evidence having rational probative value.”

Furthermore, as held in *Uichico v. NLRC*, this procedural rule should not be construed as a license to disregard certain fundamental evidentiary rules.[17] (Citations omitted)

The CA thereafter issued the assailed resolution denying the petitioners' motion for reconsideration to the foregoing. Hence, the instant petition.

The Issues

The petitioners submit the following for resolution:

THE FINDINGS OF FACT OF THE HONORABLE COURT OF APPEALS DO NOT CONFORM TO THE EVIDENCE ON RECORD. MOREOVER, THERE WAS A MISAPPRECIATION OF FACTS AND THE HONORABLE COURT OF APPEALS FAILED TO NOTICE CERTAIN RELEVANT POINTS WHICH IF CONSIDERED WOULD JUSTIFY A DIFFERENT CONCLUSION. HENCE, THE DECISION OF THE COURT OF APPEALS IS CONTRARY TO THE APPLICABLE LAW AND JURISPRUDENCE.

A. THE SURVIVING SPOUSE AND LEGAL HEIRS OF THE DECEASED SEAFARER ARE ENTITLED TO DEATH COMPENSATION IN THE SUM OF US\$121,000.00 UNDER THE AMOSUP/JSU-CBA;

B. PETITIONER[S] [ARE] ENTITLED TO MORAL DAMAGES FOR (sic) Php1,000,000.00, EXEMPLARY DAMAGES [OF] Php200,000.00 AND TEN PERCENT (10%) OF THE AWARDS AS AND BY WAY OF ATTORNEY'S FEES.[18]

The Petitioners' Arguments

The petitioners emphasize that under the IBF/AMOSUP/IMMAJ CBA, a seafarer's death is compensable regardless of its cause and its non work-relatedness as long as it occurs during the term of the latter's employment. The only exception to compensability is when death is due to willful acts. In Edwin's case, he had been under the respondents' employment for the past 30 years. Prior to boarding Sanko, he passed the PEME but was thereafter medically-repatriated as stated in Dr. Cruz's report. He died of GBM, the origin of which is unknown. Hence, it can be presumed that GBM had been contracted during his employment with the respondents.

The petitioners also point out that the dictum that death must occur during the term of a seafarer's employment is not even a hard and fast rule. In *Carmelita C. Arambulo v. West Fleet Phil./Pandiman Phil., Inc./Pacific Maritime, Inc.*,[19] the NLRC declared that for an illness to be compensable, it is not necessary for death to occur during the term of employment. What is merely required is for the connection between the cause of repatriation and the cause of death to be duly established. In *Seagull Shipmanagement & Transport, Inc. v. NLRC*,[20] the Court similarly declared that "if the disease is the proximate cause of the employee's death for which compensation is sought, the previous physical condition of the employee is unimportant, and recovery may be had for said death, independently of any pre-existing disease."

The petitioners also refute in detail the applicability of the doctrines invoked by the respondents as the circumstances surrounding them do not obtain in the case at bar. In *Gau Sheng Phils., Inc. v. Joaquin*,[21] employment was terminated upon the parties' mutual consent and the seafarer's claim was anchored on the POEA SEC and not on the provisions of a CBA. In *Hermogenes v. Osco Shipping Services, Inc.*,[22] no evidence was offered to prove the cause of the early termination of the seafarer's contract. In *Spouses Aya-ay, Sr. v. Arpaphil Shipping Corporation*,[23] the seafarer was repatriated due to an eye injury but he died of cardiovascular arrest after his contract was already terminated. In *Prudential Shipping and Management Corporation v. Sta. Rita*,[24] the seafarer was repatriated due to umbilical hernia and he died ten days after with cardiopulmonary arrest as the immediate cause, acute renal failure as the antecedent cause and hepatocellular carcinoma as the underlying cause. In *Klaveness Maritime Agency, Inc. v. Beneficiaries of the Late Second Officer Anthony S. Allas*,[25] the seafarer was not medically repatriated. In the *Estate of Posedio Ortega v. Court of Appeals*,[26] the seafarer died

of lung cancer and his heirs anchored their claim for death benefits on the POEA SEC, which unfortunately does not list the said illness as an occupational disease. The petitioners thus conclude that the contexts of the aforesaid cases are different, hence, the doctrines enunciated therein find no application.

The petitioners also allege that the respondents' prior actions indicated nothing less but an admission of the latter's legal and moral obligation to pay Edwin the amounts he was entitled to. For one, the expenses for the initial treatment administered to Edwin were shouldered by the respondents. Further, the respondents paid Edwin a full sickness allowance as provided for under POEA SEC. Moreover, the respondents repeatedly offered Edwin the amount of US\$60,000.00 corresponding to the original claim for disability benefits under the POEA SEC. This clearly meant that the respondents recognized that Edwin's illness entitled him to benefits under the POEA SEC.

The petitioners likewise aver their entitlement to moral and exemplary damages and attorney's fees on account of the respondents' unjustified refusal to comply with their contractual obligations.

The Respondents' Contentions

In their Comment with Manifestation,[27] the respondents counter that Edwin's illness was not work-related and his death occurred not during the term of his employment. Thus, the petitioners are not entitled to the payment of any benefits. The mere circumstance that the manifestations of an illness appeared while the seafarer is on-board does not necessarily render it as work-related. In the POEA SEC, the words "during the term of contract" refer to the time when death occurs while "work-related" refers to the cause of death. The two requisites must both be proven especially in view of the Court's declaration in *Rivera v. Wallem Maritime Services, Inc.*,[28] that "in the absence of substantial evidence, working conditions cannot be presumed to have increased the risk of contracting the disease".

In the case at bar, the petitioners' bare allegation, that GBM was work-related as can be inevitably concluded from Edwin's lengthy and repeated employment with the respondents, deserves no probative value unless corroborated by substantial evidence. Dr. Cruz, who had attended to Edwin's medical needs for more than three months, opined that GBM was not work-related as the latter, in the course of his employment with the respondents, was never exposed to factors which would have increased the risk of contracting the illness.

Further, Articles 25 and 26 of the CBA provide for the entitlement of a seafarer to medical treatment and sick wages for a maximum period of 130 days from repatriation. In Edwin's case, he died on April 13, 2006 or more than a year after his repatriation. Hence, when he died, he was no longer under the respondents' employ. Moreover, his repatriation, regardless of its cause, already terminated his employment. This is in consonance with Section 18 of the POEA SEC, which in part expressly provides that a seafarer's employment ceases when he signs off from the vessel and arrives at the point of hire due to medical reasons. Besides, even Article 29 of the CBA states that death is only compensable if it occurs to the seafarer "whilst in the employment of the company".

The respondents likewise deny that in effect, they admitted their liability when they made repeated offers to pay the petitioners US\$60,000.00. The respondents state that the offers were made sans prejudice to the defenses they were raising. Further, they withdrew the offers during the pendency of the proceedings before the LA and VA Ofreno.

In *Escarcha v. Leonis Navigation Co., Inc.*,[29] the heirs of a deceased seafarer were ordered to return the amount paid to them pursuant to the execution of an award favorable to them but which was subsequently reversed by the Court. In Edwin's case, equity dictates that the proper reimbursement be effected as well by the petitioners.

Our Ruling

While generally, only questions of law can be raised in a petition for review on certiorari under Rule 45 of the

Rules of Court, the instant petition falls among the exceptions in the light of the conflicting factual findings of the VA and the CA.

The instant petition ascribes misappreciation of facts on the part of the CA, which if allegedly reconsidered, would yield a conclusion favorable to the petitioners. As a rule, only questions of law, not questions of fact, may be raised in a petition for review on certiorari under Rule 45.[30] The Court is thus generally bound by the CA's factual findings. There are, however, exceptions to the foregoing, among which is when the CA's factual findings are contrary to those of the trial court or administrative body exercising quasi-judicial functions from which the action originated.[31] The instant petition falls under the aforementioned exception in the light of the divergent factual findings of the VA and the CA.

Anent the substantive arguments, we find the instant petition partially impressed with merit.

The petitioners insist their entitlement to the payment of death compensation benefits not pursuant to the provisions of the POEA SEC but under Article 29 of the CBA. According to them, the CBA merely focuses on the fact of death occurring during the term of a seafarer's employment, regardless of its cause. They further claim that even if death occurs beyond the term of a seafarer's employment, compensation should still be awarded as long as a connection can be established between the causes of repatriation and death.

On the other hand, the respondents' denial of the petitioners' claims rests on the (1) circumstance that Edwin died after the termination of his employment contract or more than a year after he was already repatriated; and (2) argument that GBM was supposedly not work-related in the absence of proofs of exposure of a seafarer to vinyl, radiation or power lines while in the work place.

The IBF/AMOSUP/IMMAJ CBA provisions govern the relations of the parties especially since the issue of the VA's jurisdiction was never challenged in the proceedings below.

The IBF/AMOSUP/IMMAJ CBA provisions govern the relations of the parties especially since the issue of the VA's jurisdiction was never challenged in the proceedings below.

It bears noting that the petitioners' complaint was initially filed with the NLRC which referred the same to the NCMB for voluntary arbitration. VA Ofreno took cognizance and ruled on the complaint. Thereafter, the respondents assailed before the CA, through a petition for review under Rule 43 of the Rules of Court, the notice of award issued by VA Ofreno. In the said petition, the parties never raised the issue of the VA's jurisdiction. In effect, it was an admission on the part of both the petitioners and the respondents that the controversy involves the interpretation of CBA provisions relative to the claims for death compensation benefits. Stated otherwise, in the proceedings below, the contending parties both impliedly acquiesced to the applicability of the CBA provisions and not of the POEA SEC over the claims of the petitioners.

More importantly, the special clauses on collective bargaining agreements must prevail over the standard terms and benefits formulated by the POEA in its Standard Employment Contract. A contract of labor is so impressed with public interest that the more beneficial conditions must be endeavored in favor of the laborer. This is in consonance with the avowed policy of the State to give maximum aid and full protection to labor as enshrined in Article XIII of the 1987 Constitution.[32]

We thus proceed to the inquiry on whether or not within the purview of the IBF/AMOSUP/IMMAJ CBA, Edwin's death on April 13, 2006, or more than a year from his repatriation, can be considered as one occurring while he

was still in the employment of the respondents.

Under the IBF/AMOSUP/IMMAJ CBA provisions, Edwin's death a little more than a year from his repatriation can still be considered as one occurring while he was still under the respondents' employ.

Articles 22 (Termination of Employment), 25 (Medical), 26 (Sick Pay) and 29 (Loss of Life – Death in Service) and Appendix 3 of the IBF/AMOSUP/IMMAJ CBA state in part:

22.1 The employment shall be terminated:

x x x x

(b) when signing off owing to sickness or injury, after medical examination in accordance with Article 25, but subject to the provision of Article 29.

x x x x

25.3 A seafarer repatriated to their port of engagement, unfit as a result of sickness or injury, shall be entitled to medical attention (including hospitalisation) at the Company's expense:

(a) in the case of sickness, for up to a minimum of sixty (60) days and a maximum of one hundred and thirty (130) days after repatriation, subject to the submission of satisfactory medical reports.

x x x x

26.1 When a seafarer is landed at any port because of sickness or injury, payment of their basic wages shall continue until they have been repatriated at the Company's expense.

26.2 Thereafter[,] the seafarers shall be entitled to sick pay at the rate equivalent to their basic wage while they remain sick up to a minimum of sixty (60) days and a maximum of one hundred and thirty (130) days.

x x x x

26.4 Proof of continued entitlement to sick pay shall be by submission of satisfactory medical reports, endorsed where necessary, by a Company[-] appointed doctor. If a doctor appointed by or in behalf of the seafarer disagrees with the assessment, a third doctor may be nominated jointly between the Company and the Union and the decision of this doctor shall be final and binding on both parties.

x x x x

29.1 If a Seafarer dies through any cause whilst in the employment of the Company including death from natural causes and death occurring whilst travelling to and from the vessel, or as a result of marine or other similar peril, but excluding death due to willful acts, the Company shall pay the sums specified in the attached APPENDIX 3 to a nominated beneficiary and to each dependent child up to a maximum of four (4) under 21 years of age. x x x

x x x x

29.4 For the purpose of this clause[,] a seafarer shall be regarded as “in the employment of the company” for so long as the provisions of Articles 25 and 26 apply and provided the death is directly attributable to sickness or injury that caused the seafarer's employment to be terminated in accordance with Article 22.1(b).

Appendix 3

x x x x

Loss of Life – Death in Service

Death in service benefits as provided in Article 29 of this Agreement shall, unless more favourable benefits are negotiated, be:

To the nominated beneficiary US\$75,000.00
 To each dependent child (maximum four (4) under 21 years of age)
US\$15,000.00
 (Emphasis and underlining supplied)

Article 22.1(b) considers an employment as terminated if a seafarer signs off from the vessel due to sickness, but subject to the provisions of Article 29.

Article 29.1 of the IBF/AMOSUP/IMMAJ CBA provides that the death of a seafarer, for any cause, is compensable when it occurs while he is in the employment of the company. Article 29.4, on the other hand, clarifies that the seafarer shall be considered as in the employment of the company “for so long as the provisions of Articles 25 and 26 apply and provided the death is directly attributable to sickness or injury that caused the seafarer's employment to be terminated in accordance with Article 22.1(b)”.

Under Article 25.3, a seafarer repatriated to the port of his engagement, unfit as a result of sickness, shall be entitled to medical attention at the company's expense for up to a maximum period of 130 days after repatriation, subject to the submission of satisfactory medical reports. Article 26.2 further states that a seafarer shall likewise be entitled to sick pay at the rate equivalent to his basic wage while he remains sick up to a maximum of 130 days. Article 26.4 allows continued entitlement to sick pay beyond the 130 day period, reckoned from repatriation, provided satisfactory medical reports shall be submitted and endorsed where necessary, by a company-appointed doctor.

We now apply the provisions of the IBF/AMOSUP/IMMAJ CBA to the circumstances surrounding Edwin's death.

On August 22, 2005, or more or less 130 days from Edwin's arrival in the Philippines, the company-designated physician, Dr. Cruz, indicated in a medical report^[33] addressed to Capt. Millalos that Edwin's repatriation was due to “body weakness and head heaviness since October 2004”. Dr. Cruz also stated that upon Edwin's arrival at the airport on April 3, 2005, the latter was noted to be “drowsy and disoriented”. Dr. Cruz diagnosed Edwin to be suffering from GBM and submitted the monthly expenses for the latter's chemotherapy to Capt. Millalos. Edwin was advised to come back on September 23, 2005. Edwin eventually died of GBM on April 13, 2006.

We note that body weakness, head heaviness, drowsiness and disorientedness are among the symptoms associated with GBM. Dr. Cruz indicated that these symptoms were exhibited by Edwin since October 2004 while he was still on board Sanko and were notable even when the latter was repatriated on April 3, 2005. Prior to repatriation, Edwin had only been diagnosed in Brazil to be suffering from kidney stones, but no exhaustive examination was conducted on him and no finding was rendered declaring that he had GBM. Nonetheless, the symptoms previously referred to were the cause of Edwin's repatriation more or less than a month before his contract was about to expire. On May 4, 2005 or about a month after repatriation, Dr. Mercado found that Edwin was afflicted with GBM and that the tumor had been progressively growing for months.^[34] Further, the medical report, dated August 22, 2005, addressed to Capt. Millalos, submitting to him the monthly expenses for Edwin's chemotherapy and advising the latter to come back on September 23, 2005, was an implied admission on the part of Dr. Cruz that medical assistance and sick pay should indeed be extended to Edwin even beyond the 130-day period prescribed by Articles 25 and 26 of the IBF/AMOSUP/IMMAJ CBA.

From the foregoing, we can thus conclude that at the time of Edwin's death on April 13, 2006 due to GBM, he was still in the employment of the respondents. While it is true that Article 22.1 of the IBF/AMOSUP/IMMAJ CBA considers a seafarer as terminated when he signs off from the vessel due to sickness, the foregoing is subject to the provisions of Article 29. Under Article 29, a seafarer remains under the respondents' employ as long as the former is still entitled to medical assistance and sick pay, and provided that the death which eventually occurs is directly attributable to the sickness which caused the seafarer's employment to be terminated. As discussed above, the company-designated physician, Dr. Cruz, in effect admitted that Edwin was repatriated due to symptoms which a person suffering from GBM normally exhibits. Further, he recommended to Capt. Millalos Edwin's entitlement to medical assistance and sick pay for a period beyond 130 days from repatriation. Edwin subsequently died of GBM, the symptoms of which were the cause of his earlier repatriation. Hence, since Edwin's death is reasonably connected to the cause of his repatriation, within the purview of the IBF/AMOSUP/IMMAJ CBA, he indubitably died while under the respondents' employ, thus, entitling the petitioners to death benefits as provided for in Appendix 3 of the said CBA.

The petitioners are, however, not entitled to moral and exemplary damages and attorney's fees.

We find that the acts of the respondents hardly indicate an intent on their part to evade the payment of their obligations so as to justify the award of moral and exemplary damages and attorney's fees to the petitioners. The respondents extended medical assistance and allowances to Edwin while he went through his treatment. Further, the respondents offered an amount of US\$60,000.00 as disability benefits even when the petitioners' claims had not been conclusively established yet.

WHEREFORE, IN VIEW OF THE FOREGOING, the instant petition is PARTIALLY GRANTED. The Decision dated July 15, 2009 and Resolution dated March 8, 2010 of the Court of Appeals, absolving the respondents from liability for death benefits pertaining to the petitioners by reason of Edwin Deauna's death, are REVERSED and SET ASIDE. The Decision dated October 28, 2008 of the Voluntary Arbitrator, awarding the amount of US\$121,000.00 to the petitioners in accordance with Appendix 3 of the International Bargaining Forum/Associated Marine Officers' and Seamen's Union of the Philippines/International Mariners Management Association of Japan Collective Bargaining Agreement, is REINSTATED. However, interests on the award shall no longer be imposed in view of the execution of the said decision already made on May 28, 2009.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Sereno, JJ., concur.

[1] Rollo, pp. 34-58.

[2] Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Vicente S.E. Veloso and Ricardo R. Rosario, concurring; id. at 11-29.

[3] Id. at 31-32.

[4] Id. at 28-29.

[5] Id. at 13.

[6] Affidavit executed by Arlina Deauna, CA rollo, p. 147.

- [7] Rollo, p. 13.
- [8] CA rollo, p. 103.
- [9] Id. at 49.
- [10] Id. at 106.
- [11] Id. at 49.
- [12] Id. at 46-48.
- [13] Rollo, pp. 133-134.
- [14] Id. at 138-145.
- [15] Then equivalent to US\$121,000.00 based on the prevailing exchange rates.
- [16] Satisfaction of Judgment Pursuant to Writ of Execution, rollo, pp. 183-184.
- [17] Id. at 20-28.
- [18] Id. at 40.
- [19] NLRC CA 014480-94, July 9, 1998.
- [20] 388 Phil. 906 (2000).
- [21] 481 Phil. 222 (2004).
- [22] 504 Phil. 564 (2005).
- [23] 516 Phil. 628 (2006).
- [24] G.R. No. 166580, February 8, 2007, 515 SCRA 157.
- [25] G.R. No. 168560, January 28, 2008, 542 SCRA 593.
- [26] G.R. No. 175005, April 30, 2008, 553 SCRA 649.
- [27] Rollo, pp. 102-132.
- [28] 511 Phil. 338 (2005).
- [29] G.R. No. 182740, July 5, 2010, 623 SCRA 423.
- [30] *Antiquina v. Magsaysay Maritime Corporation*, G.R. No. 168922, April 13, 2011, 648 SCRA 659, 669.
- [31] *AMA Computer College-East Rizal v. Ignacio*, G.R. No. 178520, June 23, 2009, 590 SCRA 633, 651.
- [32] See *Quitoriano v. Jebsens Maritime, Inc.*, G.R. No. 179868, January 21, 2010, 610 SCRA 529, 534.
- [33] CA rollo, p. 106.
- [34] Id. at 103.

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