

**GRIEG PHILIPPINES, INC., GRIEG SHIPPING GROUP AS, AND/OR
MANUEL F. ORTIZ, PETITIONERS, V. MICHAEL JOHN M. GONZALES,
RESPONDENT.**

G.R. No. 228296. July 26, 2017

Ponente: LEONEN, J.

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LEONEN, J.:

For a disability claim to prosper, a seaman only needs to show that his work and contracted illness have a reasonable linkage that must lead a rational mind to conclude that the seaman's occupation may have contributed or aggravated the disease.

This is a Petition for Review[1] filed by Grieg Philippines, Inc., Grieg Shipping Group AS (Grieg) and/or Manuel F. Ortiz[2] after the Court of Appeals July 25, 2016 Decision[3] upheld the disability benefits awarded by the National Labor Relations Commission and by the Labor Arbiter to Michael John M. Gonzales (Gonzales), a seaman who was diagnosed with acute promyelocytic leukemia while onboard a cargo vessel.

The facts as borne by the records are as follows:

Gonzales was first hired by Grieg, a shipping agent, sometime in 2010. On April 20, 2013, Gonzales was deployed to the general cargo vessel Star Florida after he was re-hired for a nine (9)-month contract.[4] This was his third contract with Grieg.[5]

Gonzales' employment contract was covered by the Associated Marine Officers' and Seaman's Union of the Philippines Collective Bargaining Agreement. Before being deployed, Gonzales underwent Pre-Employment Medical Examination and was certified to be fit for sea duty.[6]

In August 2013, while aboard Star Florida, Gonzales was advised to take paracetamol and to rest after he experienced "shortness of breath, pain in his left leg, fatigue, fever and headaches." [7] A week later, Gonzales sought medical attention in South Korea after he experienced the same symptoms. With his medical tests showing normal results, he was given medications and sent back to work in Star Florida.[8]

The following month, his past symptoms returned with the added symptom of black tarry stools. Gonzales was confined in a hospital in Indonesia where he was initially diagnosed with "pancytopenia suspect aplastic anemia." Gonzales was declared unfit for sea duty and was repatriated. He disembarked on October 8, 2013.[9]

Gonzales was admitted at the Metropolitan Medical Center after his medical repatriation. The company physicians diagnosed him with acute promyelocytic leukemia. They opined that Gonzales' leukemia was not work-related; although, for humanitarian reasons, Grieg continued to pay for his treatment.[10]

Grieg claimed that Gonzales suddenly stopped consulting the company physicians. Gonzales denied this, countering that he informed Grieg that he would be unable to attend the scheduled appointment on April 28, 2014 because he was still raising money to travel from his hometown to Manila.[11]

Gonzales claimed that his request to reschedule his appointment was granted, and thus, was surprised with the notification that Grieg had discontinued his treatment.[12]

Gonzales sought a second opinion from an independent physician, Dr. Emmanuel Trinidad, who certified that his leukemia was work-related.[13]

On July 15, 2014, after his disability claims were refused, Gonzales filed a complaint against Grieg before the Labor Arbiter.[14]

On November 28, 2014, the Labor Arbiter found that Gonzales' leukemia was work-related and that it had permanently incapacitated him to work as a seafarer.[15] The dispositive portion of the Labor Arbiter's Decision read:

WHEREFORE, premises considered, judgment is hereby rendered ORDERING the respondents to pay jointly and severally herein complainant the amount of US\$90,000.00 representing his permanent total disability compensation under the CBA, US\$2,262.00 as sickness allowance and attorney's fees equivalent to ten percent (10%) of the total monetary award or in their peso equivalent at the prevailing exchange rate on the actual date of payment.

All other claims are dismissed for lack of factual or legal basis.

SO ORDERED.[16]

Grieg appealed the Labor Arbiter's Decision before the National Labor Relations Commission. On May 25, 2015, the National Labor Relations Commission affirmed the Labor Arbiter's ruling. It also denied Grieg's motion for reconsideration.[17]

Grieg raised the following issues in its Petition for Certiorari before the Court of Appeals:

Whether the Public Respondent Commission committed grave abuse of discretion when it relied upon the mere allegations of the private respondent that his condition is work-related[;]

Whether the Public Respondent Commission committed grave abuse of discretion when it disregarded the Supreme Court rulings with respect to disputable presumption of work-relation[;]

Whether the Public Respondent Commission committed grave abuse of discretion when it awarded attorney's fees despite the absence of any evidence showing bad faith or malice on the part of the petitioners.[18]

The Court of Appeals upheld the findings of the National Labor Relations Commission and denied Grieg's Petition.[19]

The Court of Appeals ruled that with the inclusion of leukemia among the occupational diseases in Section 32-A of the Philippine Overseas Employment Administration-Standard Employment Contract, the burden of proving that it was work-related was no longer with the employee. Instead, the employer must prove otherwise—that Gonzales' leukemia was not work-related. The Court of Appeals opined that Grieg failed in this regard.[20]

The Court of Appeals asserted that even if it was assumed that leukemia was not an occupational disease, Section 20-A, paragraph 4 of the Philippine Overseas Employment Administration-Standard Employment Contract made a disputable presumption favoring seafarers. Section 20-A, paragraph 4 holds that all illnesses not listed as an occupational disease in Section 32-A are deemed work-related.[21]

The Court of Appeals upheld the findings of the National Labor Relations Commission that Gonzales was entitled to the sickness allowance under the Collective Bargaining Agreement and the permanent disability benefits of US\$90,000.00.[22] The fallo of the Court of Appeals Decision read:

WHEREFORE, the instant Petition is DENIED for lack of merit. The Decision promulgated on May 25, 2015 and Resolution promulgated on July 8, 2015 of the National Labor Relations Commission in NLRC LAC No. OFW-(M)-04-000329-15 are hereby AFFIRMED.

SO ORDERED.[23]

In its Petition for Review on Certiorari,[24] Grieg claims that Gonzales failed to prove the relation between his illness and his former position as an Ordinary Seaman.[25]

Grieg asserts that a claimant cannot merely rely on the disputable presumption that the illness is work-related and wait for the opposing party to dispute it. This disputable presumption must still adhere with the four (4) requirements in the Philippine Overseas Employment Administration Contract.[26] Furthermore, Grieg maintains that Gonzales' medical abandonment contradicts his claim of disability benefits.[27] Finally, Grieg posits that Gonzales is not entitled to attorney's fees since bad faith or malice was not sufficiently proven.[28]

In his Comment,[29] Gonzales claims that he contracted acute promyelocytic leukemia due to his use of and constant exposure to harmful chemicals and cleaning aids as part of his work function as an Ordinary Seaman.[30]

Gonzales insists that when it comes to employees' compensation cases, the yardstick is probability and not certainty. He contends that to establish work relation, only reasonable linkage between the contracted illness and the working condition should be proven.[31]

The question brought for this Court's resolution is whether the National Labor Relations Commission committed grave abuse of discretion in awarding Gonzales' claim for disability benefits and attorney's fees.

The petition must fail.

The 2000 Philippine Overseas Employment Administration-Standard Employment Contract defines work-related illness 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." [32]

The relevant portions of Section 32-A are as follows:

Section 32-A. Occupational Diseases. —

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

- The seafarer's work must involve the risks described herein;
- The disease was contracted as a result of the seafarer's exposure to the described risks;
- The disease was contracted within a period of exposure and under such other factors necessary to contract it; and
- There was no notorious negligence on the part of the seafarer.

The following diseases are considered as occupational when contracted under working conditions involving the risks described herein:

OCCUPATIONAL DISEASE NATURE OF EMPLOYMENT

....

16. Acute myeloid leukemia Secondary to prolonged benzene exposure

Benzene is a widely used chemical and is mainly used as a "starting material in making other chemicals, including plastics, lubricants, rubbers, dyes, detergents, drugs, and pesticides." [33]

To substantiate his claim that he contracted acute promyelocytic leukemia, a form of acute myeloid leukemia, [34] due to his job, Gonzales has provided his functions as an Ordinary Seaman aboard Star Florida. Among others, his tasks included removing rust accumulations and refinishing affected areas of the ship with chemicals and paint to retard the oxidation process. This meant that he was frequently exposed to harmful chemicals and cleaning aids which may have contained benzene. [35] Furthermore, Star Florida transported chemicals, which could have also contributed to Gonzales' leukemia. [36]

Gonzales likewise has presented the results of his Molecular Cytogenetic Report, which showed that his leukemia was not genetic in nature:

Cytogenetic Finding:

No. of cells screened and analyzed: 25

Karyotype: 46, XY

Remarks:

No apparent chromosome abnormality [37]

When it comes to compensability of illnesses, it is not necessary that the nature of the employment is the sole reason for the seafarer's illness. *Magsaysay Maritime Services v. Laurel* [38] reiterated the rule on compensability of illnesses:

Settled is the rule that for illness to be compensable, it is not necessary that the nature of the employment be the sole and only reason for the illness suffered by the seafarer. It is sufficient that there is a reasonable linkage between the disease suffered by the employee and his work to lead a rational mind to conclude that his work may have contributed to the establishment or, at the very least, aggravation of any pre-existing condition he might have had. [39] (Citation omitted)

Gonzales was able to satisfy the conditions under Section 32-A and establish a reasonable linkage between his job as an Ordinary Seaman and his leukemia. He has submitted his official job description, [40] which involved constant exposure to chemicals. It is also not disputed that he contracted leukemia only while he was onboard Star Florida since he was certified to be fit for sea duty prior to boarding and his leukemia was not genetic in nature.

Both labor tribunals found sufficient evidence to support Gonzales' claim of work-related illness. The Court of Appeals pointed out that Grieg failed to dispute this claim:

[Grieg] did not present the official job description and duties of the position of an ordinary seaman, to show that Gonzales was never exposed to paints and cleaning agents that contain the highly toxic compound benzene. Petitioners did not submit the cargo manifest on dates material to this case to prove that the ship's load does not include harmful chemicals.

Note that even if we are to disregard the opinion of Gonzales' own physician, this Court rules that petitioners miserably failed to dispute the medical finding that Gonzales' leukemia is not hereditary, as his tests reveal no apparent chromosome abnormality. This undeniable circumstance, taken together with Gonzales' testimony, plus the fact that he was declared fit for sea duty prior to boarding the vessel for two (2) consecutive employment contracts with the same company, all the more bolster the conclusion that the conditions set forth in Section 32-A regarding the work-relatedness of his leukemia are present in this case. [41] (Citations omitted)

As we have stated in *Monana v. MEC Global Shipmanagement and Manning Corporation*: [42]

A petition for review is limited to questions of law. This court does not "re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of the NLRC, an administrative body that has expertise in its specialized field." This court has held that "factual findings of the NLRC, when affirmed by the Court of Appeals, are generally conclusive on this court." [43] (Citations omitted)

This Court sees no reason to depart from the findings of the Labor Arbiter and the National Labor Relations Commission, which were affirmed by the Court of Appeals.

WHEREFORE, premises considered, the petition for review is DENIED for lack of merit.

SO ORDERED.

Carpio (Chairperson), Peralta, Mendoza, and Martires, JJ., concur.

[1] Rollo, pp. 3-34.

[2] Id. at 6. Manuel F. Ortiz is impleaded as an officer of Grieg. However, upon filing of this Petition, he is not connected with the agency anymore.

[3] Id. at 36-45. The Decision, docketed as CA-G.R. SP No. 142121, was penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan of the Thirteenth Division, Court of Appeals, Manila.

[4] Id. at 36-37.

[5] Id. at 41.

[6] Id. at 37.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id.

[12] Id.

[13] Id. at 38.

[14] Id.

[15] Id.

[16] Id.

[17] Id.

[18] Id. at 38-39.

[19] Id. at 44.

[20] Id. at 41.

[21] Id. at 41-42.

[22] Id. at 43-44.

[23] Id. at 44.

[24] Id. at 3-34.

[25] Id. at 10-11.

[26] Id. at 14-15.

[27] Id. at 17-20.

[28] Id. at 20-25.

[29] Id. at 92-119.

[30] Id. at 101.

[31] Id. at 107-108.

[32] POEA Memorandum Circ. No. 10 (2010).

[33] Benzene and Cancer Risk, AMERICAN CANCER SOCIETY, < <https://www.cancer.org/cancer/cancer-causes/benzene.html> > (Last accessed on July 13, 2017).

[34] Acute promyelocytic leukemia, GENETICS HOME REFERENCE, < <https://ghr.nlm.nih.gov/condition/acute-promyelocytic-leukemia> > (Last accessed on July 13, 2017).

[35] Rollo, p. 101.

[36] Id. at 41.

[37] Id. at 96-97.

[38] 707 Phil. 210 (2013) [Per J. Mendoza, Third Division].

[39] Id. at 225.

[40] Rollo, pp. 93-94.

[41] Id. at 41.

[42] 746 Phil. 736 (2014) [Per J. Leonen, Second Division].

[43] Id. at 749.

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