

**PHILSYNERGY MARITIME, INC. AND/OR TRIMURTI
SHIPMANAGEMENT LTD., PETITIONERS, VS. COLUMBANO
PAGUNSAN GALLANO, JR., RESPONDENT.**

G.R. No. 228504. June 06, 2018

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated June 21, 2016 and the Resolution[3] dated November 9, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 136970 which affirmed the Decision[4] dated May 8, 2014 and the Resolution[5] dated June 30, 2014 of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW (M)-01-000095-14, granting respondent Columbano Pagunsan Gallano, Jr.'s (respondent) claim for permanent total disability benefits in accordance with the IBF JSU/PSU-IMMAJ Collective Agreement (CBA), as well as ten percent (10%) attorney's fees.

The Facts

Respondent was employed by petitioner Philsynergy Maritime, Inc. (Philsynergy), for and in behalf of petitioner Trimurti Shipmanagement Ltd. (Trimurti; collectively, petitioners), as Master (or Ship Master) on board the vessel M.V. Pearl Halo under a six (6)-month employment contract[6] that was signed on September 21, 2012, with a basic monthly salary of US\$1,847.00, among others, and covered by a CBA.[7] After undergoing the required pre-employment medical examination (PEME) where the company-designated physician declared him fit for sea duty,[8] respondent, who was then 62 years old, boarded the vessel on October 5, 2012.[9]

On October 10, 2012, at around 10:00 in the evening and while in the performance of his duties, respondent felt a sudden numbness on the left side of his body and noticed that his speech was slurred. He was immediately provided first aid and his condition allegedly improved after taking an Isordil[10] tablet which respondent had personally brought to the vessel.[11] On the next day, his symptoms recurred, but which did not improve despite taking another dose of Isordil. Thus, respondent was brought to a local hospital in Poro, New Caledonia, where he was confined for eleven (11) days and underwent physical therapy from October 15 to 21, 2012.[12] His CT scan (computed tomography scan) revealed "middle cerebral artery deep right infarct without associated hemorrhagic alteration," while his MRI (magnetic resonance imaging) showed "ischemic cerebrovascular accident stroke ischémique, right middle deep lobe." [13]

As a result, respondent was repatriated on October 23, 2012 for further medical treatment and referred to a company-designated physician, who diagnosed him to be suffering from "Cerebrovascular Infarct Middle Cerebral Artery, Right [and] Hypertension." [14] The foregoing illnesses were declared by the company-designated physician to be not work-related, ratiocinating that the risk factors for cerebrovascular infarct (brain stroke or cerebrovascular accident [CVA]) were hypertension, Diabetes Mellitus, smoking, lifestyle, dyslipidemia, family history, age[,] and sex, while the cause for hypertension was multifactorial in origin which included "genetic predisposition, poor lifestyle, high salt intake, smoking, Diabetes Mellitus, age[,] and increased

sympathetic activity." [15]

After series of follow-up check-ups, the company-designated physician, in a Medical Report [16] dated March 9, 2013, noted that respondent's treadmill stress test already showed normal results and his blood pressure controlled. In addition, the company-designated physician opined that his cardiovascular condition has stabilized, but nonetheless advised him to continue home exercises/rehabilitation and medication. Thus, respondent was directed to undergo a repeat laboratory examination in time for his next follow-up session on April 4, 2013. [17] Records, however, are bereft of showing that the foregoing directives were complied with.

Meanwhile, the company-designated Cardiologist, in a letter [18] dated March 6, 2013 addressed to the company-designated physician, explicated that the medicine (Isordil) brought by respondent on board the vessel is a medication used to treat patients with angina (chest pain), and that while the latter denied taking any maintenance medications, the company-designated Cardiologist opined that possession of the same suggests that "he [(respondent)] may be experiencing some symptoms for which he was given that medications previously."

On the other hand, claiming that his physical condition did not improve after having suffered a brain stroke on board M.V. Pearl Halo while in the performance of his duties, and that more than 120 days had lapsed from the time he was repatriated, respondent sought for the payment of total disability benefits from petitioners, which the latter refused. [19] Thus, on April 24, 2013, respondent filed a complaint [20] for total permanent disability benefits, sickness allowance, damages, and attorney's fees against petitioners and Philsynergy's President, Capt. Reynold L. Torres, before the NLRC, docketed as NLRC Case No. (M) NCR-04-06135-13.

In their defense, [21] petitioners denied respondent's claim for disability benefits, averring in the main that the latter fraudulently concealed a previously diagnosed medical condition for which he was prescribed medication (Isordil), and which he failed to disclose during his PEME; hence, he was disqualified to receive any compensation and benefits provided under Section 20 (E) [22] of the 2010 Philippine Overseas Employment Administration Standard Employment Contract [23] (2010 POEA-SEC). [24] They likewise contended that even on the assumption that there was no concealment, petitioners were not liable under the CBA since respondent's disability did not result from an accident, [25] adding too that his illnesses, Cerebrovascular Infarct Middle Cerebral Artery, Right and Hypertension, were declared by the company-designated physician as not work-related, and therefore, not compensable. [26] Moreover, they averred that his claim for reimbursement of medical expenses had already been paid, [27] while the moral and exemplary damages, as well as attorney's fees, were without factual and legal bases. [28]

In the interim, respondent sought the opinion of an independent physician, Dr. Efren R. Vicaldo, a Cardiologist from the Philippine Heart Center, who, in a Medical Certificate [29] dated July 1, 2013, declared his illnesses, hypertensive cardiovascular disease and cerebrovascular disease, to be work aggravated/related, and assessed his health and resulting disability as Impediment Grade VII (41.80%), on the justification that respondent was required maintenance medication to control his hypertension and to prevent future cardiovascular complications, as well as change in his lifestyle. Thus, the independent physician declared him unfit to resume work as seaman in any capacity.

The Labor Arbiter's Ruling

In a Decision [30] dated October 31, 2013, the Labor Arbiter (LA) ruled in favor of respondent and ordered petitioners to pay the latter US\$60,000.00 in accordance with the 2010 POEA-SEC, as well as ten percent (10%) attorney's fees. [31]

The LA held that the provision of the CBA on disability benefits that was incorporated in respondent's

employment contract was inapplicable since it covered only those disabilities resulting from accidental injury.[32] It likewise ruled out fraudulent concealment on the part of respondent for lack of proof showing that he was already suffering from high blood pressure that triggered his brain stroke or that he was aware of the same at the time he boarded the vessel. In fact, respondent's PEME showed a normal blood pressure reading which only proved that the latter did not have a pre-existing medical condition at the time he boarded the vessel. Even on the assumption that respondent's illness was a pre-existing condition given that he carried on board medication to address the same (i.e., Isordil), such was not conclusive proof that he has suffered or was suffering from an elevated blood pressure since he may have carried them as a handy security in case of an unforeseen instance of elevated blood pressure.[33] The LA likewise ruled that respondent's diagnosed hypertension was work-related since it is listed as an occupational disease under Section 32-B of the 2010 POEA-SEC, and that it was not capable of partial disability assessment.[34] Thus, the LA awarded respondent total disability benefits notwithstanding the Grade VII impediment rating given by respondent's independent physician, pointing out that the latter has also declared the former unfit to resume work as a seafarer in any capacity.[35] Lastly, the LA ordered petitioners to pay respondent attorney's fees for having been compelled to litigate to protect his rights and interests, while the latter's claim for moral and exemplary damages were denied for lack of factual and legal bases.[36]

Aggrieved, petitioners appealed to the NLRC.

The NLRC Ruling

In a Decision[37] dated May 8, 2014, the NLRC affirmed the LA ruling with modification ordering petitioners to solidarity pay respondent US\$151,470.00 representing total and permanent disability compensation benefits in accordance with Appendix 3 (Compensation Payments) of the CBA.[38]

The NLRC agreed with the LA that there was no concealment on the part of respondent since his PEME showed fitness for work and normal blood pressure with no heart problem. It also ruled that his possession of Isordil did not ipso facto mean that he was hypertensive and under medical maintenance, and that even if respondent's hypertension pre-existed his employment, such would not bar him from claiming disability compensation as he was clearly asymptomatic of any cerebrovascular events before he boarded the vessel and that its symptoms only manifested at the time he was subjected to the strains of work and while in the performance of his duties.[39] The NLRC gave more weight to the "unfit to work" findings of respondent's independent physician given that even the company-designated physician failed to declare respondent fit to work as evidenced by his last medical report which showed the latter's need for continued rehabilitation and medication.[40] Lastly, it pointed out that the CBA contemplates all kinds of accident or unforeseen events that cause physical harm or injury to the body, and that the illness suffered by respondent was an unforeseen event that physically injured the brain.[41]

In a Resolution[42] dated June 30, 2014, the NLRC denied petitioners' motion for reconsideration and granted respondent's motion ordering petitioners to pay respondent attorney's fees.[43] Hence, the matter was elevated to the CA via a petition for certiorari.[44]

The CA Ruling

In a Decision[45] dated June 21, 2016, the CA found no grave abuse of discretion on the part of the NLRC in awarding total and permanent disability benefits in favor of respondent pursuant to the CBA. The CA agreed that respondent's brain stroke was work-aggravated/related which rendered him incapacitated to work. It noted the lack of showing that respondent suffered from any form of ailment prior to his cardiovascular accident, and that petitioners failed to refute the latter's claim that the nature of his work constantly exposed him to varying circumstances, such as extreme hot and cold temperature, harsh weather conditions, and the mental stress

associated with his work as Ship Master. It likewise observed that the company-designated physician failed to declare respondent fit to work despite the lapse of 120/240 days, rendering his disability as total and permanent. Finally, the CA sustained the award of attorney's fees as respondent was clearly compelled to litigate to protect his interests.[46]

Undaunted, petitioners moved for reconsideration[47] but the same was denied in a Resolution[48] dated November 9, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in upholding the NLRC's findings that respondent is entitled to total and permanent disability benefits under the CBA.

The Court's Ruling

The petition is denied.

I.

It is settled that the entitlement of a seafarer on overseas employment to disability benefits is governed by law, by the parties' contracts, and by the medical findings. By law, the relevant statutory provisions are Articles 197 to 199[49] (formerly Articles 191 to 193) of the Labor Code[50] in relation to Section 2 (a), Rule X[51] of the Amended Rules on Employee Compensation (AREC).[52] By contract, the material contracts are the POEA-SEC, the parties' Collective Bargaining Agreement, if any, and the employment agreement between the seafarer and the employer. In this case, respondent executed his employment contract with petitioners during the effectivity of the 2010 POEA-SEC; hence, its provisions are applicable and should govern their relations.

Pursuant to Section 20 (A) of the 2010 POEA-SEC, the employer is liable for disability benefits when the seafarer suffers from a work-related injury or illness during the term of his contract. In this regard, Section 20 (E) thereof mandates the seafarer to disclose all his pre-existing illnesses in his PEME, failing in which, he shall be disqualified from receiving the same, to wit:

E.

A seafarer who knowingly conceals a pre-existing illness or condition in the Pre-Employment Medical Examination (PEME) shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. This is likewise a just cause for termination of employment and imposition of appropriate administrative sanctions.

In this case, petitioners claim that there was willful concealment of a pre-existing medical condition (i.e., hypertension or heart condition) on the part of respondent, which thus disqualified him from claiming disability benefits under the 2010 POEA-SEC. Petitioners anchor their contention on the fact that respondent personally carried on board Isordil, a medication used to treat people with chest pain, which he failed to disclose during his PEME. In this relation, petitioners submitted the opinion of their specialist that while respondent denied taking any maintenance medications, the fact that the latter had with him Isordil suggests that "he may be experiencing some symptoms for which he was given that medications previously." [53]

The argument is untenable.

Pursuant to the 2010 POEA-SEC, an illness shall be considered as pre-existing if prior to the processing of the POEA contract, any of the following conditions is present: (a) the advice of a medical doctor on treatment was given for such continuing illness or condition; or (b) the seafarer had been diagnosed and has knowledge of such

illness or condition but failed to disclose the same during the PEME, and such cannot be diagnosed during the PEME.[54] In this case, the evidence on record is devoid of any indication that any of the conditions is present.

Isordil (isosorbide dinitrate) tablets are taken for the prevention of angina pectoris or chest pain due to coronary artery diseases.[55] It is, however, not a medication directly used for hypertension, which illness petitioners claim respondent to be suffering from prior to his engagement, as well as the reason for his repatriation. Hypertension refers to persistently high blood pressure, regardless of the cause, and because it usually does not cause symptoms for many years – until a vital organ is damaged – high blood pressure has been called the silent killer.[56] To properly determine whether a person suffers from hypertension, it is imperative that he or she undergoes medical check-ups, and consequently, procures a diagnosis from a medical doctor. In this case, no such diagnosis was presented by petitioners. Moreover, there was no clear showing that respondent was taking Isordil as maintenance medication for his hypertension or that it was the appropriate medication for his condition that gave rise to his brain stroke. At the most, petitioners submitted the opinion of a specialist, claiming that respondent may have previously experienced some symptoms of hypertension for the bare reason that he had with him Isordil. Clearly, this opinion deserves scant consideration as the same is clearly tentative and speculative in nature. In the final analysis, petitioners failed to demonstrate that respondent's act of carrying Isordil per se conclusively established the fact he had actual knowledge of his medical condition, and consequently, concealed the same in his PEME. At any rate, it is well to note that had respondent been suffering from a pre-existing hypertension at the time of his PEME, the same could have been easily detected by standard/routine tests conducted during the said examination, i.e., blood pressure test, electrocardiogram, chest x-ray, and/or blood chemistry.[57] However, respondent's PEME showed normal blood pressure with no heart problem, which led the company-designated physician to declare him fit for sea duty.[58]

Accordingly, no error can be imputed against the CA in sustaining the finding that there was no concealment on the part of respondent that would have effectively barred him from claiming disability compensation.

II.

Section 20 (A) of the 2010 POEA-SEC provides that a seafarer shall be entitled to compensation if he suffers from a work-related injury or illness during the term of his contract. A work-related illness is defined as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." [59] Section 32-A of the 2010 POEA-SEC reads:

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.

x x x x (Underscoring supplied)

During the term of his contract and while in the performance of his duties as a Ship Master, respondent undeniably suffered from brain stroke, a CVA, and hypertension – both of which are found listed under Section

32-A, and therefore, deemed work-related.

For CVA to be considered as a compensable occupational disease, Sub-item Number 12, Section 32-A of the 2010 POEA-SEC requires all of the following conditions to be met:

- CEREBROVASCULAR EVENTS

All of the following conditions must be met:

- If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by an unusual strain by reasons of the nature of his work.
- The strain of work that brings about an acute attack must be sufficient severity and must be followed within 24 hours by the clinical signs of a cardiac insult to constitute causal relationship.
- If a person who was apparently asymptomatic before being subjected to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship.
- If a person known hypertensive or diabetic, he should show compliance with prescribed maintenance and doctor-recommended lifestyle changes. The employer shall provide a workplace conducive for such compliance in accordance with Section 1 (A) paragraph 5.
- In a patient not known to have hypertension or diabetes, as indicated on his last PEME[.]

Similarly, for hypertension to be compensable, Sub-item Number 13 of Section 32-A provides:

- END ORGAN DAMAGE RESULTING FROM UNCONTROLLED HYPERTENSION

Impairment of function of the organs such as kidneys, heart, eyes and brain under the following conditions are considered compensable:

- If a person is a known hypertensive or diabetic, he should show compliance with prescribed maintenance medications and doctor-recommended lifestyle changes. The employer shall provide a workplace conducive for such compliance in accordance with Section 1 (A) paragraph 5.
- In [sic] a patient not known to have hypertension has the following on his last PEME: normal BP, normal CXR and ECG/treadmill[.] (underscoring supplied)

In this case, records show that respondent's brain stroke was brought about by his hypertension which occurred only while in the performance of his duties as a Ship Master on board M.V. Pearl Halo. As discussed, there was no indication that respondent was known to be previously suffering from hypertension, and considering further that his last PEME showed normal blood pressure, chest x-ray and ECG results, his illnesses and the resulting disability were correctly declared to be compensable.

III.

For another, petitioners assert that respondent's disability claim remains dismissible since he filed the complaint for recovery of benefits without resort to the joint appointment of a third doctor.[60]

The conflict-resolution procedure invoked by petitioners is found in Section 20 (A) of the 2010 POEA-SEC which states:

SEC. 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

x x x x

- x x x However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

- In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall not exceed 120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.

x x x x

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

x x x x (Emphasis supplied)

From the foregoing, it is clear that when a seafarer suffers a work-related injury or illness while on board the vessel, his fitness or degree of disability shall be initially determined by the company-designated physician. However, the seafarer is not absolutely bound by the findings of the company-designated physician as he is allowed to seek a second opinion and consult a doctor of his choice. In case of disagreement between the findings of the company-designated physician and the seafarer's private physician, the parties shall jointly agree to refer the matter to a third doctor whose findings shall be final and binding on both.

In *Philippine Hammonia Ship Agency, Inc. v. Dumadag*,^[61] the Court held that the seafarer's non-compliance with the foregoing conflict-resolution procedure results in the affirmance of the fit-to work certification of the company-designated physician. However, it bears to note that "[a] seafarer's compliance with such procedure presupposes that the company-designated physician came up with an assessment as to his fitness or unfitness to work before the expiration of the 120-day or 240-day periods"^[62] provided for by law. Thus, in *Kestrel Shipping Co., Inc. v. Munar*,^[63] the Court emphasized that:

A seafarer's compliance with such procedure presupposes that the company-designated physician came up with an assessment as to his fitness or unfitness to work before the expiration of the 120-day or 240-day periods. Alternatively put, absent a certification from the company-designated physician, the seafarer has nothing to contest and the law steps in to conclusively characterize his disability as total and permanent.^[64] (Emphasis supplied)

In this case, there is no showing that respondent received a timely conclusive and definitive assessment of his ailment. As borne from the records, the company-designated physician's last medical report was issued on March

9, 2013,[65] or way beyond the 120-day period reckoned from the time of respondent's repatriation on October 23, 2012. The said report also failed to provide a definite assessment of respondent's fitness to work or disability. While respondent's cardiovascular condition has stabilized, the company-designated physician nonetheless still advised the latter to continue his home exercises/rehabilitation and medications indefinitely with no clear indication as to what kind of rehabilitation is still needed for his further treatment. The same holds true for the previous medical report dated February 7, 2013[66] issued by the company-designated physician which, other than the advice to continue rehabilitation and medications, failed to show that further medical treatment was necessary to address respondent's temporary total disability, thus further discounting the justification to extend the 120-day period to 240 days.

Absent the required certification from the company-designated physician, the seafarer has therefore nothing to contest and perforce, negates the need for him to comply with the third-doctor referral provision under Section 20 (A) (3) of the 2010 POEA-SEC. As case law states, without a valid final and definitive assessment from the company designated physician within the 120/240-day periods, the law already steps in to consider seafarer's disability as total and permanent.[67]

In petitions for certiorari brought before the CA, it must be highlighted that the latter's parameter of analysis in cases elevated to it from the NLRC is the existence of grave abuse of discretion which may be ascribed to the NLRC when, inter alia, its findings and conclusions reached are not supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[68] Given that the NLRC's ruling was amply supported by the evidence on record and current jurisprudence on the subject matter, the CA cannot be faulted in not finding grave abuse of discretion on the part of the NLRC granting respondent's total and permanent disability benefits.

IV.

The foregoing notwithstanding, the Court clarifies that respondent's disability benefits should be awarded pursuant to the provisions of the 2010 POEA-SEC, and not the CBA as held by the NLRC and the CA. To be entitled to compensation in accordance with Appendix 3 (Compensation Payments) of the CBA,[69] a seafarer must suffer an injury as a result of an accident, which is defined in jurisprudence as "an unintended and unforeseen injurious occurrence; something that does not occur in the usual course of events or that could not be reasonably anticipated; an unforeseen and injurious occurrence not attributable to mistake, negligence, neglect or misconduct. Accident is that which happens by chance or fortuitously, without intention and design, and which is unexpected, unusual and unforeseen." [70] Here, respondent was suffering from an occupational disease; hence, it cannot be said that respondent figured into an accident. Accordingly, respondent is entitled to the total disability compensation under the 2010 POEA-SEC in the amount of US\$60,000.00. Nevertheless, the CA correctly granted the award of attorney's fees equivalent to ten percent (10%) of the award, as the same is in accord with law and jurisprudence.[71]

WHEREFORE, the petition is DENIED. The Decision dated June 21, 2016 and the Resolution dated November 9, 2016 of the Court of Appeals in CA-G.R. SP No. 136970 are hereby AFFIRMED WITH MODIFICATION ordering petitioners Philsynergy Maritime, Inc. and/or Trimurti Shipmanagement Ltd. to jointly and severally pay respondent Columbano Pagunsan Gallano, Jr. the amount of US\$60,000 or its equivalent amount in Philippine Currency at the time of payment, representing total and permanent disability benefits in accordance with the 2010 Philippine Overseas Employment Administration Standard Employment Contract, as well as ten percent (10%) thereof, as attorney's fees.

SO ORDERED.

Carpio, (Chairperson), Peralta, Caguioa, and Reyes, Jr., JJ., concur.

[1] Rollo, pp. 3-58.

[2] Id. at 61-73. Penned by Associate Justice Carmelita Salandanan Manahan with Associate Justices Japar B. Dimaampao and Franchito N. Diamante, concurring.

[3] Id. at 75-76.

[4] Id. at 336-346. Penned by Presiding Commissioner Herminio V. Suelo with Commissioner Numeriano D. Villena, concurring and Commissioner Angelo Ang Palana, dissenting.

[5] Id. at 358-363.

[6] Id. at 131.

[7] See IBF JSU/PSU-IMMAJ CA; id. at 132-166.

[8] Id. at 130.

[9] Id. at 167.

[10] "Isodril" in some parts of the records.

[11] See rollo, pp. 63 and 337-338.

[12] See id.

[13] Id. at 175.

[14] Id. at 175-176.

[15] See Medical Report dated October 30, 2012; id. at 177.

[16] Id. at 186.

[17] See id.

[18] Id. at 185.

[19] Id. at 210-211.

[20] Id. at 127-129.

[21] See petitioners' Position Paper dated June 3, 2013; id. at 102-124.

[22] SECTION 20. COMPENSATION AND BENEFITS**E.**

A seafarer who knowingly conceals a pre-existing illness or condition in the Pre-Employment Medical Examination (PEME) shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. This is likewise a just cause for termination of employment and imposition of the appropriate administrative sanctions.

[23] POEA Memorandum Circular No. 10, Series of 2010, entitled "AMENDED STANDARD TERMS AND CONDITIONS GOVERNING THE OVERSEAS EMPLOYMENT OF FILIPINO SEAFARERS ON-BOARD OCEAN-GOING SHIPS" dated October 26, 2010.

[24] See rollo, pp. 108-115.

[25] See id. at 115-116.

[26] See id. at 116-122.

[27] See id. at 121-122.

[28] See id. at 122-123.

[29] Id. at 257-258.

[30] CA rollo, pp. 72-81. Penned by Labor Arbiter Veneranda C. Guerrero.

[31] Id. at 81.

[32] Id. at 78.

[33] See id. at 78-79.

[34] Id. at 80.

[35] See id. at 80-81.

[36] See id. at 81.

[37] Rollo, pp. 336-346.

[38] Id. at 345.

[39] See id. at 341-342.

[40] See id. at 344.

[41] See id. at 344-345.

[42] Id. at 358-363.

[43] Id. at 362.

[44] Dated August 6, 2014. Id. at 370-420.

[45] Id. at 61-73.

[46] See id. at 70-72.

[47] See petitioners' motion for reconsideration dated July 5, 2016; id. at 77-97.

[48] Id. at 75-76.

[49] ART. 197. [191] Temporary Total Disability – (a) Under such regulations as the Commission may approve, any employee under this Title who sustains an injury or contracts sickness resulting in temporary total disability shall, for each day of such a disability or fraction thereof, be paid by the System an income benefit equivalent to ninety percent of his average daily salary credit, subject to the following conditions: the daily income benefit shall not be less than Ten Pesos nor more than Ninety Pesos, nor paid for a continuous period longer than one hundred

twenty days, except as otherwise provided for in the Rules, and the System shall be notified of the injury or sickness.

x x x x

ART. 198. [192] Permanent Total Disability – (a) Under such regulations as the Commission may approve, any employee under this Title who contracts sickness or sustains an injury resulting in his permanent total disability shall, for each month until his death, be paid by the System during such a disability, an amount equivalent to the monthly income benefit, plus ten percent thereof for each dependent child, but not exceeding five, beginning with the youngest and without substitution: Provided, That the monthly income benefit shall be the new amount of the monthly benefit for all covered pensioners, effective upon approval of this Decree.

x x x x

(c) the following disabilities shall be deemed total and permanent:

(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;

x x x x

ART. 199. [193] Permanent Partial Disability – (a) Under such regulations as the Commission may approve, any employee under this Title who contracts sickness or sustains an injury resulting in permanent partial disability shall, for each month not exceeding the period designated herein, be paid by the System during such a disability an income benefit for permanent total disability.

x x x x (Emphases and underscoring supplied)

[50] Department Advisory No. 1, Series of 2015, entitled "RENUMBERING OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED" dated July 21, 2015.

[51]

Rule X

Temporary Total Disability

Section 2. Period of entitlement – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

x x x x (Emphases supplied)

[52] (July 21, 1987).

[53] Rollo, p. 185.

[54] Item No. 11 (a) and (b), Definition of Terms, 2010 POEA-SEC.

[55] < https://www.rxlist.com/isordil-drug.htm#indications_dosage > and < <https://www.rxlist.com/isordil-drug/patient-images-side-effects.htm#whatis> > (visited May 21, 2018).

[56] <

<https://www.msmanuals.com/home/heart-and-blood-vessel-disorders/high-blood-pressure/high-blood-pressure> > (visited May 21, 2018).

[57] C.F. Sharp Crew Management, Inc. v. Legal Heirs of the Late Repiso, G.R. No. 190534, February 10, 2016, 783 SCRA 516, 543.

[58] See rollo, p. 130.

[59] Item No. 16, Definition of Terms, 2010 POEA-SEC.

[60] See rollo, pp. 35-45.

[61] See 712 Phil. 507, 521-523 (2013).

[62] Kestrel Shipping Co., Inc. v. Munar, 702 Phil. 717, 737-738 (2013).

[63] Id.

[64] Id. See also Section 2, Rule VII of the AREC, which provides:

Section 2. Disability – (a) A total disability is temporary if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period not exceeding 120 days, except as otherwise provided in Rule X of these Rules.

[65] Rollo, p. 186.

[66] Id. at 183.

[67] See Talaroc v. Arpaphil Shipping Corporation, G.R. No. 223731, August 30, 2017

[68] See Racelis v. United Philippine Lines, Inc. 746 Phil. 758, 780 (2014).

[69] Rollo, pp. 157-158.

[70] C.F. Sharp Crew Management, Inc. v. Perez, 752 Phil. 46, 57 (2015).

[71] See Philippine Transmarine Carriers, Inc. v. Tallafer, G.R. No. 219923, June 5, 2017.

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