

ARIEL P. HORLADOR, PETITIONER, VS. PHILIPPINE TRANSMARINE CARRIERS, INC., MARINE SHIPMANAGEMENT LTD., AND CAPTAIN MARLON L. MALANAO, RESPONDENTS.*G.R. No. 236576. September 05, 2018*

Ponente: PERLAS-BERNABE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-236576/>**PERLAS-BERNABE, J.:**

Assailed in this petition for review on certiorari[1] are the Decision[2] dated February 3, 2017 and the Resolution[3] dated December 15, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 136386, which affirmed the Decision[4] dated February 28, 2014 and the Resolution[5] dated May 22, 2014 of the National Labor Relations Commission (NLRC) in NLRC NCR Case No. (M) 04-06497-13 finding petitioner Ariel P. Horlador (petitioner) entitled to permanent and total disability benefits, with modification deleting the award of attorney's fees amounting to ten percent (10%) of the total monetary award in his favor.

The Facts

On April 18, 2012, respondent Philippine Transmarine Carriers, Inc. (PTCI), for and on behalf of its foreign principal, respondent Marine Shipmanagement Ltd. (Marine), hired[6] petitioner as a Chief Cook on board the vessel PRAIA for a period of eight (8) months starting from his deployment on June 19, 2012.[7] On January 3, 2013 and while on board the vessel, petitioner, while carrying provisions, suddenly felt a severe pain on his waist, abdomen, and down to his left scrotum. As the pain persisted for a number of days, he was airlifted to a hospital in Belgium where he was diagnosed with "infection with the need to rule out Epididymitis and Prostatitis" and advised to undergo repatriation.[8] Upon arrival in the Philippines, petitioner claimed that he immediately reported to PTCI and asked for referral for further treatment, but was ignored. As such, he used his health card in order to seek treatment at the Molino Doctors Hospital where he was diagnosed with hernia.[9] Thereafter, petitioner consulted two (2) other physicians who similarly concluded that the nature and extent of his illness permanently and totally prohibited him from further working as a seaman due to his "Chronic prostatitis." [10] Thus, he filed a complaint[11] for, inter alia, permanent and total disability benefits against PTCI, Marine, and respondent Captain Marlon L. Malanao as the crewing manager (respondents).

For their part, respondents averred that petitioner is not entitled to permanent and total disability benefits, contending that petitioner: (a) was not medically repatriated as his discharge from the vessel was due to contract completion; (b) failed to comply with the mandatory post-deployment medical examination; and (c) failed to prove his allegation that he had contracted and was diagnosed with hernia.[12]

The Labor Tribunals' Ruling

In a Decision[13] dated September 27, 2013, the Labor Arbiter (LA) dismissed petitioner's complaint for lack of merit, essentially upholding respondents' contentions in this case.[14] Aggrieved, petitioner appealed[15] to the NLRC.

In a Decision[16] dated February 28, 2014, the NLRC reversed and set aside the LA's ruling, and accordingly, ordered respondents to pay petitioner permanent and total disability benefits in the amount of US\$60,000.00 or its peso equivalent and ten percent (10%) thereof as attorney's fees.[17] The NLRC found that: (a) petitioner was medically repatriated; (b) after medical repatriation, he tried reporting to PTCI for post-employment medical examination, but was ignored; and (c) petitioner's disability was indeed work-related and diagnosed to be permanent and total, and thus, compensable.[18]

Respondents moved for reconsideration,[19] but was denied in a Resolution[20] dated May 22, 2014. Dissatisfied, they filed a petition for certiorari[21] before the CA.

The CA Ruling

In a Decision[22] dated February 3, 2017, the CA affirmed the NLRC ruling, with modification deleting the award of attorney's fees.[23] It held that the NLRC did not gravely abuse its discretion in finding, among others, that petitioner suffered a compensable work-related illness that caused his permanent and total disability, and that respondents denied his request for treatment or post-employment medical examination.[24] The CA, however, found it appropriate to delete the award of attorney's fees for the NLRC's failure to present the factual bases therefor.[25]

Both parties moved for reconsideration,[26] which were, however, denied in a Resolution[27] dated December 15, 2017. Hence, this petition assailing the aforesaid deletion of attorney's fees.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA correctly deleted the award of attorney's fees in petitioner's favor.

The Court's Ruling

The petition is meritorious.

There are two (2) commonly accepted concepts of attorney's fees - the ordinary and extraordinary. In its ordinary concept, an attorney's fee is the reasonable compensation paid to a lawyer by his client for the legal services the former renders; compensation is paid for the cost and/or results of legal services per agreement or as may be assessed. In its extraordinary concept, attorney's fees are deemed indemnity for damages ordered by the court to be paid by the losing party to the winning party. The instances when these may be awarded are enumerated in Article 2208 of the Civil Code and is payable not to the lawyer but to the client, unless the client and his lawyer have agreed that the award shall accrue to the lawyer as additional or part of compensation.[28] Particularly, Article 2208 of the Civil Code reads:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiffs plainly valid, just and demandable claim;

- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Emphases and underscoring supplied)

In labor cases involving employees' wages and other benefits, the Court has consistently held that when the concerned employee is entitled to the wages/benefits prayed for, he/she is also entitled to attorney's fees amounting to ten percent (10%) of the total monetary award due him/her.[29]

In this case, suffice it to say that the CA erred in deleting the award of attorney's fees, considering that petitioner was found to be entitled to permanent and total disability benefits and was forced to litigate to protect his valid claim. Thus, the reinstatement of such award is in order.

WHEREFORE, the petition is GRANTED. The Decision dated February 3, 2017 and the Resolution dated December 15, 2017 of the Court of Appeals in CA-G.R. SP No. 136386 are MODIFIED in that the award of attorney's fees equivalent to ten percent (10%) of the total monetary awards due petitioner Ariel P. Horlador is hereby REINSTATED.

SO ORDERED.

Carpio, Senior Associate Justice, (Chairperson), Caguioa, A. Reyes, Jr., and J. Reyes, Jr.,[**] JJ., concur.

[*] "Marin" in some parts of the records.

[**] Designated Additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 11-24.

[2] CA rollo, pp. 644-658. Penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios, concurring.

[3] Rollo, pp. 36-41.

[4] CA rollo, pp. 36-50. Penned by Commissioner Dolores M. Peralta-Beley with Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Mercedes R. Posada-Lacap, concurring.

[5] Id. at 62-72. Penned by Commissioner Dolores M. Peralta-Beley with Presiding Commissioner Grace E. Maniquiz-Tan, concurring. Commissioner Mercedes R. Posada-Lacap was on leave.

[6] See Contract of Employment; id. at 124.

[7] Id. at 645.

[8] See id. at 37-38.

[9] Id. at 646.

[10] Id. at 647.

[11] Dated April 30, 2013; id. at 74-75.

[12] Id. at 647.

[13] Id. at 52-60. Penned by Labor Arbiter Fedriel S. Panganiban.

[14] See id. at 55-59.

[15] See Notice of Appeal (with Memorandum on Appeal) dated November 4, 2013; id. at 167-182.

[16] Id. at 36-50.

[17] Id. at 49.

[18] See id. at 40-49.

[19] See motion for reconsideration dated April 2, 2014; id. at 209-226.

[20] Id. at 62-72.

[21] Dated July 23, 2014; id. at 3-26.

[22] Id. at 644-658.

[23] Id. at 657.

[24] See id. at 654.

[25] See id. at 657.

[26] See respondents' motion for reconsideration dated March 6, 2017 (id. at 664-676); and petitioner's motion for partial reconsideration dated March 3, 2017 (id. at 681-683).

[27] Rollo, pp. 36-41.

[28] See *Tangga-an v. Philippine Transmarine Carriers, Inc.*, 706 Phil. 339, 352 (2013), citing *Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa MWC-East Zone Union v. Manila Water Company, Inc.*, 676 Phil. 262, 275 (2011).

[29] See *Balatero v. Senator Crewing (Manila), Inc.*, G.R. No. 224532, June 21, 2017; *Maersk Filipinos Crewing, Inc. v. Ramos*, G.R. No. 184256, January 18, 2017; *United Philippine Lines, Inc. v. Sibug*, 731 Phil. 294, 303 (2014); and *Fil-Pride Shipping Company, Inc. v. Balasta*, 728 Phil. 297, 314 (2014).

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