

RUDY T. AMPOLITOD, PETITIONER, VS. TOP EVER MARINE MANAGEMENT PHILS. INC., TEMM MARITIME CO., LTD., AND CAPT. OSCAR D. ORBETA, RESPONDENTS.*G.R. No. 252347. May 22, 2024*

Ponente: GAERLAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-252347/>**GAERLAN, J.:**

This is a Petition for Review on Certiorari[1] filed by petitioner Rudy T. Ampolitod (Ampolitod), assailing the Decision[2] dated November 28, 2019 and the Resolution[3] dated March 12, 2020 promulgated by the Court of Appeals (CA) in CA-G.R. SP. No. 159193, which affirmed the Decision[4] dated August 28, 2018 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 05-000363-18 which dismissed Ampolitod's claim for total and permanent disability benefits.

FACTS

On June 27, 2015, Rudy T. Ampolitod was hired by Top Ever Marine Management Phils. Inc. (Top Ever) for and in behalf of its principal, TEMM Maritime Company, Ltd. (TEMM Maritime) as an Able-Bodied Seaman to work on board the vessel "M/V" Coral Opal for a period of nine months. Prior to this employment, Ampolitod was hired continuously by Top Ever for and on behalf of TEMM Maritime since 2009 to work on board different vessels under various positions.[5] Prior to his deployment, Ampolitod was given a clean bill of health by the company-designated doctors.[6]

On August 25, 2015, Ampolitod joined "M/V" Coral Opal. Sometime in October 2015, almost two months after embarkation and while on board the vessel, Ampolitod suddenly felt dizzy, weak, and tired. On October 22, 2015, Ampolitod requested permission from the vessel's Master to have a medical examination at a medical clinic in Baton Rouge, Louisiana, United States of America for his complete blood count (CBC).[7] According to his Hematology results, Ampolitod had a platelet count of 51 L, below the normal platelet count of 150-400.[8]

On October 25, 2015, Ampolitod noticed bruising on his legs, arms, and other body parts. In addition, Ampolitod felt dizzy and had blurred vision.[9] The following day, the vessel's Master sent him to West Jefferson Medical Center for medical treatment. The attending physician diagnosed Ampolitod with Thrombocytopenia and was advised to see a hematologist.[10] In addition, Ampolitod was declared unfit to work and recommended his repatriation.[11]

On October 29, 2015, Ampolitod was medically repatriated and arrived in the Philippines on October 30, 2015. On October 31, 2015, respondents had him admitted at the Manila Doctors Hospital where he was monitored and treated by the hematology team from that day until November 21, 2015. The company-designated physician's impression was Pancytopenia Secondary to Idiopathic Thrombocytopenia Purpura. Said condition is compatible with Myelodysplastic Syndrome (MDS), as confirmed by the November 16, 2015 bone marrow biopsy result.[12] The company-designated physician also sent a specimen of Ampolitod's bone marrow for cytogenetic analysis to the Molecular Cytogenetics Laboratory of St. Luke's Medical Center. The cytogenetic report of December 10,

2015 showed that Ampolitod's illness is not genetic in nature.[13]

Respondents claim that during medical history taking at Manila Doctors Hospital, Ampolitod admitted that sometime in June 2015, he suffered from Isolated Anemia but was subsequently cleared for employment abroad. Ampolitod was asymptomatic until three months later when he noted anterior chest wall petechial and right calf and arm hematoma.

Ampolitod started treatment on October 31, 2015, and continued until May 2016 for almost seven months. Sometime in May 2016, Ampolitod's treatment was discontinued after his CBC showed normal result and that he was already fit to work.[14] Even after the discontinued treatment, the company physician recommended that Ampolitod continue monitoring his CBC.[15] Thus, Ampolitod regularly underwent CBC testing at Capital University Medical Center in his province in Cagayan De Oro. Ampolitod furnished the company-designated physicians his CBC results from January 20, 2016 until August 5, 2017, all of which showed below than normal results, especially on the platelet count. Ampolitod also continued to suffer from dizziness, bruising on his body, and blurred vision.[16]

During this time, Ampolitod also regularly visited Dr. Alisa Q. Queja (Dr. Queja), an internal medicine-hematologist in his hometown, for follow-up monitoring of his CBC. In a Medical Certificate dated September 6, 2017, Dr. Queja, under diagnosis MOS, declared Ampolitod "Not fit to work." [17] Ampolitod also sought the medical opinion of Dr. May S. Donato-Tan (Dr. Donato-Tan), an internal medicine cardiologist at the Philippine Heart Center, who declared him permanently disabled.

Consequently, on November 3, 2017, Ampolitod filed before the Labor Arbiter (LA) a complaint to recover permanent total disability benefits.[18]

During the mandatory conference, the parties agreed to refer the matter to a third doctor - Dr. Ivy Mae Escasa (Dr. Escasa), an internal medicine-adult hematologist. In a Report dated January 25, 2018, Dr. Escasa confirmed Ampolitod's MDS and made the following remarks: (1) placed his survival at 8.8 years; (2) that he has a low risk to develop acute myeloid leukemia; and (3) she recommended that Ampolitod not be allowed to work as a seafarer anymore. However, the report of Dr. Escasa did not indicate that the illness was work-related.[19]

Ruling of the Labor Arbiter

In its Decision dated March 23, 2018, LA Julia Cecily Coching-Sosito ruled in favor of Ampolitod and concluded that his illness was due to his exposure to harmful chemicals in the paints, solvents, and ether cleaning agents.[20] Accordingly, LA Sosito awarded total and permanent disability benefit, among others to Ampolitod, the dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered finding Rudy Tenio Ampolitod entitled to permanent and total disability benefit.

Respondents Top Ever Marine Management Phils., Inc., TEMM Maritime Co. Ltd. and Oscar Orbeta are ordered to pay, jointly and severally, complainant the amount of [USD] 60,000.00 plus attorney's fees of [USD] 6,000.00, all in its peso equivalent at the time of payment.

SO ORDERED.[21] (Emphasis in the original)

According to the LA, although the medical certificate presented by Ampolitod did not categorically state that his illness is work-related, Ampolitod 's repeated and continuous rehiring by respondents for the same position and function exposed him to harmful chemicals which caused his illness.[22]

Aggrieved, petitioner filed a Notice of Appeal questioning the foregoing LA Decision.[23]

Ruling of the NLRC

In its Decision dated August 28, 2018, the NLRC reversed and set aside the LA Decision and dismissed the complaint filed by Ampolitod. The dispositive portion of the NLRC Decision[24] reads:

WHEREFORE, premises considered, the instant Appeal is GRANTED. Accordingly, the assailed Decision dated 23 March 2018 rendered by Labor Arbiter Julia Cecily Coching Sosito is hereby REVERSED and SET ASIDE and a NEW ONE ENTERED dismissing the complaint for lack of merit.

SO ORDERED.[25] (Emphasis in the original)

In reversing the LA Decision and dismissing the Complaint, the NLRC delved into the nature of MDS, including its symptoms and known risk factors contributing to MDS. The NLRC then noted that MDS is not among the occupational diseases listed in Section 32-A of the 2010 Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC), and thus it should be incumbent upon Ampolitod to present proof that his working conditions caused or at the very least increased the risk of contracting MDS.[26] However, according to the NLRC, Ampolitod failed to prove a causal connection between his illness and the nature of his work.[27] NLRC concluded that although Ampolitod was exposed to chemicals used to chip and remove rust on the deck, it was not shown that he was exposed for such a considerable period of time to reasonably conclude that his work contributed to or resulted to MDS.[28]

Thereafter, petitioner filed its Motion for Reconsideration[29] which was eventually denied by the NLRC in its Resolution[30] dated October 30, 2018. Thus, petitioner filed a Petition for Certiorari[31] with the CA, assailing the foregoing Decision of the NLRC.

Ruling of the CA

In its Decision dated November 28, 2019, the CA affirmed the findings and ruling of the NLRC, denying Ampolitod's complaint:[32]

WHEREFORE, the petition is DISMISSED. The Decision dated August 28, 2018 and the Resolution dated October 30, 2018 of the National Labor Relations Commission in NLRC LAC No. 05-000363-18; NLRC NCR-OFW-M-11-16305-17 are hereby AFFIRMED.[33] (Emphasis in the original)

In dismissing the Petition, the CA affirmed the findings of the NLRC that Ampolitod failed to prove by substantial evidence the mandatory requirements for compensability.[34] In particular, the CA held that Ampolitod failed to show that his illness was contracted or developed during his short stay onboard "M/V" Coral Opal.[35] Moreover, the CA found that Ampolitod failed to adduce substantial evidence to show that his illness—MDS is work-related to entitle him to disability benefits.

Thereafter, petitioner filed its Motion for Reconsideration which was eventually denied by the CA in its Resolution dated March 12, 2020.[36]

Hence, the present Petition for Review on Certiorari.

Our Ruling

I

At the outset, we must stress that the remedy under Rule 45 is generally limited to questions of law, and thus, this Court is not duty-bound to analyze and weigh all over again the evidence presented in the proceedings a quo.[37] Moreover, the findings of facts and conclusion of the NLRC are generally accorded not only great weight and respect but even clothed with finality and deemed binding on this Court as long as they are supported by substantial evidence.[38]

However, the foregoing rule admits of certain exceptions, such as when the lower courts have conflicting findings of fact.[39]

In this case, the conflicting factual findings by the LA on one hand, and the NLRC as affirmed by CA on the other, compels this Court to delve into the records and examine for itself the questioned findings.[40]

II

A seafarer's entitlement to disability benefits is a matter governed not only by medical findings, but also by law and contract,[41] i.e., the employment contract and the 2010 POEA-SEC (Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships,) under POEA Memorandum Circular No. 10 (Series of 2010), which are deemed incorporated therein.[42]

Thus, for disability to be compensable under Section 20(A) of the 2010 POEA-SEC, two elements must concur: (1) the injury or illness must be work--related; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.[43]

The POEA-SEC defines a 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." [44] On the other hand, Section 20(A)(4) of the POEA-SEC provides that illnesses not mentioned under Section 32 are disputably presumed to be work-related.[45] Nevertheless, this presumption is only limited to the "work-relatedness" of an illness and does not cover and extend to compensability.[46]

The disputable presumption does not signify an automatic grant of compensation and/or benefits claim.[47] While the law disputably presumes an illness not found in Section 32-A to be also work-related, the seafarer must nevertheless still prove compliance with the conditions for compensability,[48] whether or not the work-relatedness of his illness is disputed by the employer.[49]

The legal presumption of work-relatedness must still be read together with the requirements of compensability under Section 32-A of the 2010 POEA-SEC,[50] which provides:

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

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

Thus, for both listed occupational diseases under Section 32 and non-listed illnesses, the seafarer must sufficiently show by substantial evidence compliance with the conditions for compensability.[51]

For a non-occupational disease to be compensable, substantial evidence must be presented to prove that the risk of contracting the illness was aggravated by the employee's working conditions.[52] It is enough that the seafarer's employment contributed, even in a small degree, to the development of the disease.[53] Only reasonable proof of work connection is required, and not direct causation. In resolving compensability, this Court only looks for probability, not the ultimate degree of certainty.[54]

In the present case, petitioner was diagnosed with Myelodysplastic Syndrome or MDS after a bone marrow biopsy was conducted, after he was medically repatriated. In addition, the company-designated physician also sent

a specimen of Ampolitod's bone marrow for cytogenetic analysis to the Molecular Cytogenetics Laboratory of St. Luke's Medical Center which showed that his illness is not genetic in nature.[55]

The finding that Ampolitod was suffering from MDS was likewise affirmed by his doctor of choice, as well as the third doctor—Dr. Escasa, chosen by the parties during mandatory conference. According to Dr. Escasa, an internal medicine-adult hematologist, Ampolitod had: (1) a very low risk MDS with an average survival of 8.8 years; and (2) very low risk to develop acute myeloid leukemia. Dr. Escasa likewise recommended that Ampolitod not be allowed to work as a seafarer anymore given his condition.

Myelodysplastic Syndrome or MDS comprises a heterogeneous group of clonal hematopoietic stem cell malignancies with significant morbidity and high mortality.[56] Simply put, it is a group of diverse bone marrow disorders in which the bone marrow does not produce enough healthy blood cells. MDS is often referred to as a "bone marrow failure disorder." [57]

Clinical manifestations or symptoms of MDS include a decrease in the number of red blood cells (RBC), platelets, and white blood cells (WBC).[58] In addition, patient suffering from MOS experience infection, anemia, spontaneous bleeding, or easy bruising. Anemia (low red blood cell counts), neutropenia (low white blood cell counts), and thrombocytopenia (low platelet counts).[59] Moreover, patients may complain of fatigue, shortness of breath chest pain, or dizziness due to this.[60]

Development of MDS may occur due to various mechanisms such as environmental and occupational exposures[61] to chemicals like benzene, radiation, prior exposure to chemotherapeutic agents, or may be idiopathic, which is typically seen in the elderly population.[62]

In the case of Ampolitod, he was hired as an Able Seaman tasked with overhauling/maintaining gears/equipment, as well as to chip rust and paint the deck of the ship, among other duties.[63] From the nature of his work, Ampolitod's duties clearly exposed him to various industrial solvents, cleaning agents, and chemicals.

As this Court has recognized, Benzene is a widely used chemical and is mainly used as a sta11ing material in making other chemicals, including, plastics, lubricants, rubbers, dyes, detergents, drugs, and pesticides.[64] Thus, it cannot be denied, that in the performance of his duties as an Able Seaman, Ampolitod was exposed to benzene contained in the solvents, agents, and chemicals used by him.

Respondents attempt to discount Ampolitod's exposure to benzene by claiming that it had only been two months since he was deployed before the symptoms manifested on board the vessel.[65] Respondents assert that there must be long-term exposure to benzene to develop MDS, if at all.[66]

We do not agree.

Although, Ampolitod developed the symptoms for his MDS two months after he joined "M/V" Coral Opal, it is beyond dispute that he was hired by respondents repeatedly for a span of six years. According to Ampolitod's Application for Shipboard Employment, he has been continuously rehired. by respondents since November 2009 up until August 2015—the present employment contract, or for almost six years, in various positions, either as an Ordinary Seaman or an Able Seaman.[67] During his lengthy service to respondents, Ampolitod performed essentially the same functions which would expose him to various industrial solvents, cleaning agents, and chemicals containing benzene. Thus, it is highly probable that it caused or at the very least contributed even to a small degree to the development or aggravation of his MDS.

In addition, Ampolitod underwent cytogenetic analysis which yielded "no apparent chromosome abnormality,"[68] indicating that his MDS is not genetic in nature.

Given the foregoing, petitioner was able to establish that his MDS was work-related and that his working conditions, exposure to various industrial solvents, cleaning agents, and chemicals containing benzene, and his lengthy service with respondents caused or at the very least contributed to the development of his MDS. Accordingly, we find petitioner is entitled to disability benefits.

A.

Petitioner is entitled to total and permanent disability benefits

Having established that Ampolitod's illness is work-related and compensable, the next issue for resolution is the extent of his disability and the corresponding benefits he is entitled to.

Respondents argue that Ampolitod had no disability as shown by the Final Disability Assessment issued by the company-designated physician on January 20, 2016.[69] However, despite Ampolitod's supposed clearance, he was still assessed as "Low Risk type of MDS," and was supposedly disease-free based on his CBC Results.[70]

For his part, Ampolitod claims that the Final Disability Assessment mentioned by respondents was in fact a Medical Report between the company-designated physician and respondents. Ampolitod denies having received any copy of the supposed Final Disability Assessment. He only received a copy of the said report during the Single Entry Approach (SEnA) mandatory conference.[71] Furthermore, Ampolitod asserts that he was made to monitor his CBC and was given continued treatment until May 2016. It was only in May 2016 that his treatment was discontinued, and he was verbally informed by the company-designated physician that he already had normal CBC results and was fit to work.[72]

We rule in favor of petitioner.

In *Elburg Shipmanagement Phils., Inc. v. Quiogue*,[73] the Court set forth the following rules whenever there is a claim for total and permanent disability benefits by a seafarer:

1. The company-designated physician must issue a final medical assessment on the seafarer's disability grading within a period of 120 days from the time the seafarer reported to him;
2. If the company-designated physician fails to give his assessment within the period of 120 days, without any justifiable reason, then the seafarer's disability becomes permanent and total;
3. If the company-designated physician fails to give his assessment within the period of 120 days with a sufficient justification (e.g., seafarer required further medical treatment or seafarer was uncooperative), then the period of diagnosis and treatment shall be extended to 240 days. The employer has the burden to prove that the company-designated physician has sufficient justification to extend the period; and
4. If the company-designated physician still fails to give his assessment within the extended period of 240 days, then the seafarer's disability becomes permanent and total, regardless of any justification.[74]

Pertinently, the foregoing medical assessment issued by the company-designated physician must be final, definite, and conclusive.[75]

In addition, this Court had occasion to disregard a medical report issued by a company-designated physician when it was shown that the seafarer was never furnished a copy thereof. Thus, in *Gere v. Anglo-Eastern Crew Management Phils., Inc.*[76] We held that the company-designated physician must not only "issue" a final medical assessment, but they also must "give" their assessment to the seafarer concerned. The seafarer must be fully and

properly informed of their medical condition. The results of their medical examinations, the treatments extended to them, the diagnosis and prognosis, if needed, and, of course, their disability grading must be fully explained to them by no less than the company-designated physician.

Absent proper notice of the final medical assessment, respondent would not be in a position to evaluate or contest the findings.

In the instant case, Ampolitod was never furnished or given a copy of the supposed Final Disability Assessment/Medical Report dated January 20, 2016 within the 120-day/240-day period provided by law. It was only during the proceedings before the SENa, after Ampolitod filed the complaint in 2017 that he was furnished a copy of the said assessment. Clearly, the said Final Disability Assessment was given beyond the period provided.

Moreover, respondents did not even attach the Final Disability Assessment supposedly issued by the company-designated physician to their submissions before this Court.

In addition, there is serious doubt as to the credibility of the said assessment. According to respondents, Ampolitod was cleared and declared fit to work citing a Medical Report dated January 20, 2016, stating that he was already normal based on his CBC Results.

The foregoing findings, however, were clearly refuted by the series of CBC Results taken at the Capitol University Medical Center in Cagayan De Oro which showed that Ampolitod's blood count was way below the normal range.[77] These results were taken during the period wherein Ampolitod was told to monitor his CBC and underwent continued treatment by the company-designated physician until May 2016. Notably, one CBC result showed he had below normal blood count on the day he was supposedly cleared for work—January 20, 2016.[78]

The table below clearly indicates that Ampolitod was still exhibiting symptoms of his MDS, i.e., low blood count, signifying that his condition was not normal and that he had not fully recovered.

Date Taken

Test

Result

Reference Value[79]

January 20, 2016[80] Hgb[81]

11.3

13.7-16.7 g/L

WBC[82]

4,000

5,000 – 10,000 cell/mm³

Platelet Count

48,000

144,000-372,000 cell/mm³

April 1, 2016[83] Hgb

13.6

13.7-16.7 g/L

WBC

3,000

5,000 – 10,000 cell/mm³

Platelet Count

52,000

144,000-372,000 cell/mm³

April 22, 2016[84] Hgb

12.3

13.7-16.7 g/L

WBC

2,200

5,000 – 10,000 cell/mm³

Platelet Count

55,000

144,000-372,000 cell/mm³

May 5, 2016[85] Hgb

11.8

13.7-16.7 g/L

WBC

4,500

5,000 – 10,000 cell/mm³

Platelet Count

49,000

144,000-372,000 cell/mm³

May 13, 2016[86] Hgb

11.7

13.7-16.7 g/L

WBC

4,300

5,000 – 10,000 cell/mm³

Platelet Count

56,000

144,000-372,000 cell/mm³

The foregoing test results were taken after the company-designated physician recommended Ampolitod to continue monitoring his CBC even after the discontinuation of his treatment. This signified that even the company-designated physician was not confident that Ampolitod's CBC levels had already returned to normal and that his condition was stable.

Consistent from the foregoing results is that Ampolitod's platelet count was significantly low during the time he was supposedly declared fit to work, and the following months thereafter. A platelet count that falls below the lower limit of normal, is defined as "thrombocytopenia." [87] Thrombocytopenia is among the symptoms that manifest when an individual suffers from MDS. [88]

Clearly, Ampolitod was far from being cleared and declared fit to work. In fact, based on the findings of the third doctor - Dr. Escaca, Ampolitod still exhibited low platelet count and mild anemia. Thus, Dr. Escaca recommended that Ampolitod no longer be allowed to work as a seafarer anymore due to the necessity of closely monitoring his condition and the need for immediate care should bleeding develop. [89]

Accordingly, in the absence of a final, definite, and conclusive medical assessment by the company-designated physician furnished or relayed to respondent, the law steps in and presumes that respondent suffered total and permanent disability. [90] The grant of permanent total disability benefits does not require a state of absolute helplessness. It is enough that there is inability to substantially pursue his gainful occupation as seafarer without serious discomfort or pain and without material injury or danger to life. [91]

With respect to the award of attorney's fees, Article 2208(8) of the Civil Code provides that the same can be recovered in actions for the recovery of wages of laborers and actions for indemnity under employer's liability laws. Attorney's fees are also recoverable where an employee is forced to litigate and incur expenses to protect their right and interest. [92] Thus, the award of attorney's fees in the amount equivalent to 10% of the total award is warranted.

Moreover, the Court deems it proper to impose on all monetary awards due to petitioner legal interest at the rate of 6% per annum, reckoned from finality of this Decision until full payment, in accordance with prevailing jurisprudence. [93]

ACCORDINGLY, the Petition for Review on Certiorari is GRANTED. The Decision dated November 28, 2019 and the Resolution dated March 12, 2020 promulgated by the Court of Appeals in CA-G.R. SP. No. 159193 which affirmed the Decision dated August 28, 2018 of the National Labor Relations Commission in NLRC LAC No. 05-000363-18 are hereby REVERSED and SET ASIDE.

The Decision dated March 23, 2018 of the Labor Arbiter in NLRC NCR Case No. (M) 11-16305-17 is REINSTATED with MODIFICATION. Respondents Top Ever Marine Management Phils., Inc., TEMM Maritime Co. Ltd. and Oscar Orbeta are ORDERED to jointly and severally PAY Rudy T. Ampolitod the amount of USD 60,000.00, plus 10% attorney's fees amounting to USD 6,000.00, all in its peso equivalent at the time of payment. The foregoing amounts shall earn legal interest at the rate of 6%, per annum from finality of this Decision until full payment.

SO ORDERED.

Inting, Dimaampao, and Singh, JJ., concur.

Caguioa (Chairperson), J., see concurring and dissenting opinion.

[1] Rollo, pp. 12-56.

[2] Id. at 61-72. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of this Court) and Walter S. Ong of the Special Thirteenth Division, Court of Appeals, Manila.

[3] Id. at 74-75. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of this Court) and Walter S. Ong of the Former Special Thirteenth Division, Court of Appeals, Manila.

[4] Id. at 119-138. Penned by Commissioner Erlinda T. Agus and concurred in by Commissioner Dominador B. Mendroso, Jr.

[5] Id. at 62.

[6] Id.

[7] Id. at 156.

[8] Id.

[9] Id.

[10] Id. at 62.

[11] Id. at 156.

[12] Id. at 63.

[13] Id.

[14] Id.

[15] Id.

[16] Id.

[17] Id.

[18] Id. at 64.

[19] Id. at 89.

[20] Id. at 275.

[21] Id. at 276.

[22] Id.

[23] Id. at 277

[24] Id. at 120-138.

[25] Id. at 140-141.

[26] Id. at 132.

[27] Id. at 133.

[28] Id.

[29] Id. at 317-342.

[30] Id. at 139-148.

[31] Id. at 76-115.

[32] Id. at 71.

[33] Id.

[34] Id. at 68.

[35] Id.

[36] Id. at 73.

[37] Republic v. De Borja, 803 Phil. 8, 17 (2017) [Per J. Caguioa, First Division].

[38] Peckson v. Robinson Supermarket Corp. et al., 713 Phil. 471, 479 (2013) [Per J. Reyes, First Division].

[39] In Medina v. Mayor Asistio, Jr., 269 Phil. 225, 232 (1990) [Per J. Bidin, Third Division] the Court recognized the following exceptions to the general rule that only questions of law can be reviewed by the Court:

(1)

When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;

(2)

When the inference made is manifestly mistaken, absurd or impossible;

(3)

Where there is a grave abuse of discretion;

(4)

When the judgment is based on a misapprehension of facts;

(5)

When the findings of fact are conflicting;

(6)

When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;

(7)

The findings of the Court of Appeals are contrary to those of the trial court;

(8)

When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9)

When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and

(10)

The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

[40] Paredes v. Feed the Children Philippines, Inc., 769 Phil. 418, 433 (2015) [Per J. Peralta, Third Division].

[41] Doehle-Philman Marining Agency, Inc. v. Gatchalian, Jr., G.R. No. 207507, February 17, 2021 [Per J. M. Lopez, Second Division].

[42] Grossman v. North Sea Marine Services Corp., G.R. No. 256495, December 7, 2022 [Per J. Kho, Second Division]; BW Shipping Philippines, Inc. v. Ong, G.R. No. 202177, November 17, 2021 [Per J. Gaerlan, Second Division]; Career Phils. Shipmanagement, Inc. v. Tiquio, 853 Phil. 724, 737-738 (2019) [Per J. Perlas-Bernabe, Second Division]; Olidana v. Jebsens, 772 Phil. 234, 245 (2015) [Per J. Mendoza, Second Division]; Carcedo v. Maine Marine Philippines, Inc., 758 Phil. 166, 180 (2015) [Per J. Carpio, Second Division]; C.F. Sharp Crew Management, Inc. v. Taok, 691 Phil. 521, 533 (2012) [Per J. Reyes, Second Division]; Jebsens Maritime, Inc. and/or Alliance Maritime Services, Ltd. v. Undag, 678 Phil. 938, 946 (2011) [Per J. Mendoza, Third Division].

[43] Ledesma C.F. Sharp Crew Management, Inc., G.R. No. 241067, October 5, 2022 [Per J. Gesmundo, First Division]; Darroca, Jr. v. Century Maritime Agencies, Inc., G.R. No. 234392, November 10, 2021 [Per J. Hernando, Second Division]; Ilustricimo v. NYK-Fil Ship Management, Inc., 834 Phil. 693, 701 (2018) [Per J. Velasco, Third Division]; Dohie-Philman Manning Agency, Inc. v. Heirs of Gazzingan, 760 Phil. 861, 877 (2015) [Per J. Del Castillo, Second Division]; Career Philippines Shipmanagement, Inc. v. Serna, 700 Phil. 1, 11 (2012) [Per J. Brion, Second Division].

[44] Item 16, Definition of Terms, 2010 POEA-SEC.

[45] Section 20(A) (4) of the 2010 POEA SEC provides: "4. Those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related."

[46] Career Phils. Shipmanagement, Inc. v. Tiquio, supra at 744-745; Romana v. Magsaysay Maritime Corp., 816 Phil. 194, 204 (2017) [Per J. Perlas-Bernabe, First Division].

[47] Ledesma v. C.F. Sharp Crew Management, Inc., supra note 43; Marlow Navigation Phils. v. Heirs of Beato, G.R. No. 233897, March 9, 2022 [Per J. Hernando, Second Division].

[48] One Shipping Corp. v. Heirs of Abarrientos, G.R. No. 255802, October 12, 2022, [Per J. M.V. Lopez, Second Division]; Unitra Maritime Manila, Inc. v. Campanero, G.R. No. 238545, September 7, 2022 [Per J. J. Y. Lopez, Second Division].

[49] Career Phils. Shipmanagement, Inc. v. Tiquio, supra note 42, at 744-745; Romana v. Magsaysay Maritime Corp., supra note 46.

[50] Darroca, Jr. v. Century Maritime Agencies, Inc., supra note 43; Leonis Navigation Co., Inc. v. Villamater, 628 Phil. 81, 96 (2010) [Per J. Nachura, Third Division].

- [51] Darroca, Jr. v. Century Maritime Agencies, Inc., id.; Romana v. Magsaysay Maritime Corp., supra note 46.
- [52] Social Security System v. Simacas, G.R. No. 217866, June 20, 2022 [Per J. Leonen, Second Division]; Sarmiento v. Employees' Compensation Commission, 228 Phil. 400, 405 (1986) [Per J. Gutierrez, Second Division].
- [53] Unitra Maritime Manila, Inc. v. Campanero, supra note 48; Alfredo Ani Corcoro, Jr. v. Magsaysay MOL Marine, Inc., et al., 879 Phil. 369, 375 (2020) [Per J. Carandang, Third Division].
- [54] Unitra Maritime Manila, Inc. v. Campanero, id.; C.F. Sharp Crew Mgmt., Inc., et al. v. Castillo, 809 Phil. 180, 189 (2017) [Per J. Peralta, Second Division].
- [55] Rollo, p. 63.
- [56] Xiaomei Ma, Epidemiology of Myelodysplastic Syndromes, 125 THE AMERICAN JOURNAL OF MEDICINE, Issue 7, S2-S5 (2012), available at <https://doi.org/10.1016/j.amjmed.2012.04.014> (Last accessed on August 15, 2023).
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- [63] Rollo, pp. 155-156.
- [64] Grieg Philippines, Inc. v. Gonzales, 814 Phil. 965, 972 (2017) [Per J. Leonen, Second Division].
- [65] Rollo, p. 227.
- [66] Id.
- [67] Id. at 180.
- [68] Id. at 188.
- [69] Id. at 217.
- [70] Id.
- [71] Id. at 240.
- [72] Id. at 238.

[73] 765 Phil. 341 (2015) [Per J. Mendoza, Second Division].

[74] See also *Benhur Shipping Corp. v. Riego*, G.R. No. 229179, March 29, 2022 [Per C. J. Gesmundo First Division]; *Pastrana v. Bahia Shipping Services*, 873 Phil. 892, 904 (2020) [Per Caguioa, First Division].

[75] *Abella v. Abosta Shipmanagement Corp.*, G.R. No. 249358, April 28, 2021 [Per J. Caguioa, First Division].

[76] *Parce v. Magsaysay Maritime Corp.*, G.R. No. 241309, November 11, 2021 [Per J. J. Lopez, First Division]; 830 Phil. 695, 706 (2018) [Per J. Reyes, Jr., Second Division].

[77] Rollo, pp. 189-205.

[78] *Id.* at 189.

[79] Otherwise known as "Reference intervals" which describe the typical range of results seen in a healthy reference population.

Sikaris KA, Physiology and its importance for reference intervals, CLIN BIOCHEM REV, (2014) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3961997/> (Last accessed on August 15, 2023).

[80] Rollo, p. 189.

[81] Hemoglobin.

[82] White Blood Cell Count.

[83] Rollo, p. 190.

[84] *Id.* at 191.

[85] *Id.* at 192.

[86] *Id.* at 193.

[87] Jinna S, Khandhar PB Thrombocytopenia, STATPEARLS PUBLISHING, available at <https://www.ncbi.nlm.nih.gov/books/NBK542208/> (Last accessed on August 15, 2023).

[88] Available at <https://www.mds-foundation.org/what-is-mds/> (Last accessed on August 15, 2023).

[89] Rollo, p. 214.

[90] *Abella v. Abosta Shipmanagement Corp.*, supra note 75.

[91] *Magsaysay Mol Marine, Inc. v. Atraje*, 836 Phil. 1061, 1081 (2018) [Per J. Leonen, Third Division].

[92] *Atienza v. Orophil Shipping International Co., Inc.*, 815 Phil. 480, 508 (2017) [Per J. Perlas-Bernabe, First Division].

[93] *Reuyan v. INC Navigation Co. Phils., Inc.*, G.R. No. 250203, December 7, 2022 [Per J. Kho, Second Division]; *Nacar v. Gallery Frames*, 716 Phil. 267, 279 (2013) [Per J. Peralta, En Banc].

CONCURRING AND DISSENTING OPINION

CAGUIOA, J.:

The ponencia resolves to grant the Petition for Review on Certiorari (Petition) filed by Rudy T. Ampolitod (petitioner) and reverse the Decision dated November 28, 2019 and Resolution dated March 12, 2020 of the Court of Appeals (CA) which denied petitioner's claim for total and permanent disability benefits.

As narrated in the ponencia, petitioner was engaged as an Able-bodied Seaman by Top Ever Marine Management Phils. Inc., for and on behalf of its principal TEMM Maritime Company Ltd., (collectively, respondents) to work onboard the vessel "M/V" Coral Opal for a period of nine (9) months. After undergoing pre-employment medical examination, petitioner was issued a clean bill of health by the company-designated physician and was deployed on August 25, 2015.[1]

Almost two (2) months from his deployment and while on board the vessel, petitioner began to feel dizziness, weakness, and fatigue. He got a medical check-up in a clinic in Louisiana, USA and had a complete blood count (CBC) test where it was discovered that he had a platelet count of 51 L, lower than the normal count of 150-400 L. His symptoms worsened when bruises start to appear on his arms, legs, and other body parts. He continued to feel dizzy and started to have blurry vision. He was brought to another medical center where he was diagnosed with Thrombocytopenia. He was advised to see a hematologist and declared unfit to work. He was medically repatriated on October 29, 2015, and arrived in the Philippines the next day.[2]

On October 31, 2015, petitioner was admitted at the Manila Doctors Hospital where he was monitored and treated by the hematology team under the supervision of the company-designated physician. He was diagnosed with Pancytopenia Secondary to Idiopathic Thrombocytopenia Purpura, which is compatible with Myelodysplastic Syndrome (MDS). He underwent diagnostic tests and medical treatment from October 31, 2015 until May 2016 when his treatment was discontinued after his CBC showed normal results and he was declared fit to work. Despite this declaration, the company-designated physician recommended that petitioner continue monitoring his CBC, which petitioner followed. He monitored his blood count by undergoing regular CBC testing with the results of such tests furnished to the company-designated physician until August 5, 2017. Consequently, petitioner consulted with a physician of his choice who declared him unfit to work and permanently disabled. Thereafter, petitioner filed a claim for disability benefits against respondents.[3]

The ponencia grants the Petition and awards total and permanent disability benefits in favor of petitioner on the following grounds: 1) the causal relation between the nature of petitioner's illness and his working conditions establishes the compensability of his illness; and 2) the failure of the company-designated physician to issue a final and valid medical assessment, and to inform petitioner of such assessment within the period prescribed by law entitles petitioner to permanent and total disability benefits by operation of law.

The inconclusive assessment and lack of notice to petitioner entitle him to permanent total disability benefits by operation of law

I concur with the ponencia that the company-designated physician failed to issue a final, conclusive, and valid assessment within the period prescribed under the laws.

Respondents claim that the company-designated physician issued a final assessment on January 20, 2016 that declared petitioner fit to work. However, as the ponencia found, petitioner was still required to monitor his CBC results and report the same to the company-designated physician even after the issuance of the supposed final assessment.[4] He was still undergoing treatment until May 2016 when the respondents discontinued his treatment

upon report from the company-designated physician that petitioner already had normal CBC results and was fit to work.[5]

In *Jebsens Maritime, Inc. v. Mirasol*,[6] the Court ruled that "[a] final, conclusive, and definite medical assessment must clearly state whether the seafarer is fit to work or the exact disability rating, or whether such illness is work-related, and without any further condition or treatment. It should no longer require any further action on the part of the company-designated physician, and it is issued by the company-designated physician after he or she has exhausted all possible treatment options within the periods allowed by law." Applying the same, the January 20, 2016 Final Disability Assessment cannot be deemed to be final and conclusive. It is inconsistent that petitioner was declared fit to work, but he was still required to undergo treatment and was advised to continue monitoring his blood count, even after the issuance of the company-designated physician's final medical report.

Further, as duly found by the ponencia, the said assessment was not furnished to petitioner as he was only apprised of the same during the Single- Entry Approach mandatory conference.[7] The lack of notice to petitioner violates the provisions of Section 20(A) of the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) and petitioner's right to due process of law. There being no proper notice within the 120/240-day period, the disability of petitioner became permanent and total by operation of law.

On this ground alone, the award of disability benefits may already be granted. However, the ponencia proceeded to discuss the compensability of petitioner's illness applying the "reasonable linkage" standard. The ponencia ruled that the working conditions of petitioner—tasked to overhaul/maintain gears or equipment, to chip rust, and to paint the deck of the ship which exposed him to various industrial solvents, cleaning agents and chemicals, including Benzene—caused or at the very least contributed to the development or aggravation of petitioner's MDS.

I respectfully disagree for two (2) reasons: a) the "reasonable linkage" standard does not apply in the instant case because the company-designated physician failed to overcome the presumption of work-relatedness of petitioner's illness which consequently entitles him to compensation; and b) there is no factual basis for the ponencia to conclude that petitioner was exposed to Benzene and such exposure contributed to the development of his illness.

The "reasonable linkage" standard does not apply to petitioner because his illness manifested during the term of his contract

With respect to the applicability of the "reasonable linkage" standard, the Court's ruling in *Ventis Maritime Corp. v. Salenga*[8] (*Ventis*) is instructive on this matter. In *Ventis*, the Court had the opportunity to discuss the rules governing complaints for disability benefits filed by seafarers, to wit:

The seafarer's complaints for disability benefits arise from (1) injury or illness that manifests or is discovered during the term of the seafarer's contract, which is usually while the seafarer is on board the vessel or (2) illness that manifests or is discovered after the contract, which is usually after the seafarer has disembarked from the vessel. As further explained below, it is only in the first scenario that Section 20(A) of the POEA-SEC applies.

....

Based on the foregoing, if the seafarer suffers from an illness or injury during the term of the contract, the process in Section 20(A) applies. The employer is obliged to continue to pay the seafarer's wages, and to cover the cost of treatment and medical repatriation, if needed. After medical repatriation, the seafarer has the duty to

report to the company- designated physician within three days upon his [or her] return. The employer shall then pay sickness allowance while the seafarer is being treated. And thereafter, the dispute resolution mechanism with regard to the medical assessments of the company-designated, seafarer-appointed, and independent and third doctor, shall apply.

The disputable presumption of work-relatedness provided in paragraph 4 above arises only if or when the seafarer suffers from an illness or injury during the term of the contract and the resulting disability is not listed in Section 32 of the POEA-SEC. That paragraph 4 above provides for a disputable presumption is because the injury or illness is suffered while working at the vessel. Thus, or stated differently, it is only when the illness or injury manifests itself during the voyage and the resulting disability is not listed in Section 32 of the POEA-SEC will the disputable presumption kick in. This is a reasonable reading inasmuch as, at the time the illness or injury manifests itself, the seafarer is in the vessel, that is, under the direct supervision and control of the employer, through the ship captain.

....

In instances where the illness manifests itself or is discovered after the term of the seafarer's contract, the illness may either be (1) an occupational illness listed under Section 32-A of the POEA-SEC, in which case, it is categorized as a work-related illness if it complies with the conditions stated in Section 32-A, or (2) an illness not listed as an occupational illness under Section 32-A but is reasonably linked to the work of the seafarer.

For the first type, the POEA-SEC has clearly defined a work-related illness as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." What this means is that to be entitled to disability benefits, a seafarer must show compliance with the conditions under Section 32-A, as follows:

- The seafarer's work must involve the risks described therein;
- The disease was contracted as a result of the seafarer' 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.

As to the second type of illness—one that is not listed as an occupational disease in Section 32-A—Magsaysay Maritime Services v. Laurel instructs that the seafarer may still claim provided that he [or she] suffered a disability occasioned by a disease contracted on account of or aggravated by working conditions. For this illness, "[i]t is sufficient that there is a reasonable linkage between the disease suffered by the employee and his [or her] work to lead a rational mind to conclude that his [or her] work may have contributed to the establishment or, at the very least, aggravation of any pre-existing condition he [or she] might have had." Operationalizing this, to prove this reasonable linkage, it is imperative that the seafarer must prove the requirements under Section 32-A: the risks involved in his [or her] work; his [or her] illness was contracted as a result of his [or her] exposure to the risks; the disease was contracted within a period of exposure and under such other factors necessary to contract it; and he [or she] was not notoriously negligent.

In effect, the table of illnesses and the corresponding nature of employment in Section 32-A only provide the list of occupational illnesses. It does not exempt a seafarer from providing proof of the conditions under the first paragraph of Section 32-A in order for the occupational illness/es complained of to be considered as work-related and, therefore, compensable.

Further, in both types, to determine the amount of compensation, the seafarer must show the resulting disability

following as guide the schedule listed in Section 32.[9] (Emphasis supplied, citations omitted)

From the foregoing, the governing rule for petitioner's complaint is Section 20(A) of the POEA-SEC since his non-listed illness occurred during the term of his contract. Generally, to be compensable, it is incumbent upon petitioner to prove that (1) his injury or illness is work-related and (2) his injury or illness existed during the term of his employment contract. But since petitioner's illness is not listed under Section 32, it is disputably presumed to be work-related. The burden is then with the company-designated physician to prove that petitioner's illness is not work-related guided by the conditions set forth under Section 32-A.

This is the tenor of the Court's ruling in *Hernandez v. Sealion Maritime Services, Corp.*[10] (*Hernandez*) where it was held that the disputable presumption of work-relatedness automatically includes a corollary disputable presumption of compensability, revisiting the ruling in *Romana v. Magsaysay Maritime Corp.*[11] to wit:

The disputable presumption of work-relatedness should automatically include a corollary disputable presumption of compensability. Otherwise, the presumption of work-relatedness would serve no purpose if the seafarer were still required to submit further proof of entitlement to disability compensation. Therefore, the conditions listed under Section 32-A of the 2010 POEA-SEC are presumed to be satisfied given that the injury or illness occurred during the seafarer's term of employment. This is in keeping with the principal/employer/master/company's "duty to take all necessary precautions to prevent or avoid accident, injury or illness to the crew and to observe the Code of Ethics for Seafarers, and to provide a workplace conducive for the promotion and protection of the health of the seafarers." If at all, the conditions under Section 32-A can be used by the principal/employer/master/company to disprove the presumption in favor of the seafarer.[12] (Emphasis supplied, citation omitted)

As applied in this case, the mere failure of respondents to refute the disputable presumption of work-relatedness is construed in petitioner's favor. Petitioner is no longer required to prove that the nature of his work caused or aggravated the risk of his illness for the presumption to apply. In essence, the disputable presumption of work-relatedness holds as the company-designated physician failed to rebut it. Further, the presumption of work-relatedness includes the presumption of compensability, unless the company-designated physician was able to establish that the illness is not work-related, which such physician failed to do in this case. Thus, the discussion on the "reasonable linkage" standard is no longer necessary.

This ruling has also been applied in the case of *Petipit, Jr. v. Crossworld Marine Services, Inc.*[13] (*Petipit*) where the Court reiterated that Section 20(A) of the POEA-SEC applies to a seafarer who suffers an injury or illness during the term of his or her contract. When such injury or illness is not listed under Section 32, it gives rise to the disputable presumption that the injury or illness is work-related. The seafarer need not further prove that his or her work conditions caused or at least increased the risk of the illness or injury for the presumption to apply. The statutory presumption stands unless refuted by the employer company. It must be emphasized that the ponente concurred in the Court's decisions in both *Hernandez* and *Petipit*.

To reiterate, when a seafarer incurs an injury or illness during the term of his or her employment contract, the provisions of Section 20(A) of the POEA-SEC shall apply.[14] The employer is obligated to comply with the payment of sickness allowance, transportation and lodging expenses, medical and hospitalization fees of the seafarer until such time that the seafarer is declared fit or the degree of his or her disability has been established by the company-designated physician. Likewise the seafarer is obligated to comply with his or her duty to submit himself or herself for post-employment medical examination within three (3) days from repatriation, to report regularly to the company-designated physician, and to follow his or her treatment plan, otherwise he or she forfeits his or her right to claim benefits.[15] Meanwhile, the company-designated physician is duty-bound to issue a final, conclusive, and valid medical assessment of the seafarer's injury or illness within 120 days, or if

further treatments are needed, it may be extended up to 240 days.[16] The medical assessment must have a declaration of work-relatedness of the injury or illness and of the seafarer's fitness to work or disability grading.[17] Further, the company-designated physician shall furnish the seafarer of his or her medical assessments and records.[18] Upon the issuance of the final and definitive medical assessment and notice to the seafarer, the latter may consult with the physician of his or her choice for a second-opinion. In case of conflicting findings, the parties may refer the matter to a third doctor whose findings shall be binding. This initiates the dispute resolution mechanism.[19]

However, when a seafarer acquires or discovers an illness after the term of his or her employment contract, the governing rule shall depend on the type of illness: (1) if it is an occupational disease listed under Section 32-A, it will be considered work-related if it complies with the conditions set forth therein; or (2) if it is not an occupational disease listed under Section 32-A, it may be considered work-related upon substantial proof by the seafarer that his or her illness is "reasonably linked" to the kind of work he or she did while onboard the vessel.[20]

Thus, I submit that the discussion on the "reasonable linkage" between petitioner's illness and his work conditions is no longer necessary.

Court's findings of work-relatedness must rely on substantial evidence presented by the parties

Further, the ponencia's conclusion that petitioner was exposed to Benzene which caused or at the very least contributed to the development of his MDS[21] is not supported by the evidence on record. The ponencia relied on medical articles or clinical studies from medical websites to support its finding that petitioner's MDS is reasonably linked to the conditions of his work as an Able-bodied Seaman. However, such reliance is contrary to the norm that decisions of the Court must be based on established facts, applicable law, and existing jurisprudence.[22] While there may be scientific basis to the conclusions made in these medical articles, the Court cannot simply take judicial notice of them, without presentation of evidence to prove their probative value and applicability to petitioner's specific medical condition. Thus, the Court must be mindful in citing medical articles as basis for its determination of the work-relatedness of a seafarer's injury or illness. Instead, the Court must rely on the medical findings of the company-designated physician or of the seafarer's independent physician who have personally examined and assessed the actual condition of the seafarer.

In this case, there was no substantial evidence to support the finding that petitioner was exposed to Benzene while he was working onboard the vessel. Further, it was not indicated in the findings of the company-designated physician nor of the seafarer's independent physician that petitioner's MDS could have been caused by exposure to such chemical.

ACCORDINGLY, I vote to GRANT the Petition on the sole ground that petitioner is entitled to total and permanent disability benefits by operation of law due to the failure of the company-designated physician to issue a final and definitive assessment and to notify the seafarer of such assessment within the period prescribed by the law.

[1] Ponencia, p. 2.

[2] Id.

[3] Id. at 2-3.

[4] Id. at 13.

[5] Id.

[6] 854 Phil. 241 (2019) [J. Caguioa, Second Division].

[7] Ponencia, p. 13.

[8] 873 Phil. 567 (2020) [Per J. Caguioa, First Division].

[9] Id. at 576-585.

[10] G.R. No. 248416, July 14, 2021 [Per J. Carandang, First Division]. This pinpoint citation refers to the copy of the Decision uploaded to the copy of the Decision uploaded to the Supreme Court website.

[11] 816 Phil. 194 (2017) [Per J. Perlas-Bernabe, First Division].

[12] *Hernandez v. Sealion Maritime Services, Corp.*, supra note 10.

[13] G.R. No. 247970, July 14, 2021 [Per J. Carandang, First Division]. This pinpoint citation refers to the copy of the Decision uploaded to the copy of the Decision uploaded to the Supreme Court website.

[14] See *Ventis Maritime Corp. v. Salenga*, supra note 8.

[15] See *Crown Shipping Services v. Cervas*, G.R. No. 214290, July 6, 2021 [Per J. Gaerlan, First Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[16] See *Elburg Shipmanagement Phils. Inc. v. Quioge*, 765 Phil. 341 (2015) [Per J. Mendoza, Second Division].

[17] See *Carcedo v. Maine Marine Phils. Inc.*, 758 Phil. 166 (2015) [Per J. Carpio, Second Division].

[18] See *Gere v. Angio-Eastern Crew Management Phils. Inc.*, 830 Phil. 695 (2018) [Per J. Reyes, Jr., Second Division].

[19] See *Bunayog v. Foscon Shipmanagement, Inc.*, G.R. No. 253480, April 25, 2023 [Per J. Gaerlan, En Banc]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[20] See *Ventis Maritime Corp. v. Salenga*, supra note 8 at 584.

[21] Ponencia, pp. 10-11.

[22] See *Raza v. Daikoku Electronics Phils. Inc.*, 765 Phil. 61 (2015) [Per J. Peralta, Third Division].

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