

BAGONG FILIPINAS OVERSEAS CORPORATION AND GOLDEN STAR SHIPPING, LTD., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, PHILIPPINE OVER-SEAS EMPLOYMENT ADMINISTRATION, DIREC...

G.R. No. 66006. February 28, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

The issue in this case is whether the shipboard employment contract or Hongkong law should govern the amount of death compensation due to the wife of Guillermo Pancho who was employed by Golden Star Shipping, Ltd. a Hongkong based firm.

The shipboard employment contract dated June 1, 1978 was executed in this country between Pancho and Bagong Filipinas Overseas Corporation, the local agent of Golden Star Shipping. It was approved by the defunct National Seamen Board. Pancho was hired as an oiler in the M/V Olivine for 12 months with a gross monthly wage of US\$195.

In October, 1978, he had a cerebral stroke. He was rushed to the hospital while the vessel was docked at Gothenberg, Sweden. He was repatriated to the Philippines and confined at the San Juan de Dios Hospital. He died on December 13, 1979.

The National Seamen Board awarded his widow, Proserfina, P20,000 as disability compensation benefits pursuant to the above-mentioned employment contract plus P2,000 as attorney's fees. Proserfina appealed to the National Labor Relations Commission which awarded her \$621 times 36 months or its equivalent in Philippine currency plus 10% of the benefits as attorney's fees. Golden Star Shipping assailed that decision by certiorari.

We hold that the shipboard employment contract is controlling in this case. The contract provides that the beneficiaries of the seaman are entitled to P20,000 "over and above the benefits" for which the Philippine Government is liable under Philippine law.

Hongkong law on workmen's compensation is not the applicable law. The case of Norse Management Co. vs. National Seamen Board, G.R. No. 54204, September 30, 1982, 117 SCRA 486 cannot be a precedent because it was expressly stipulated in the employment contract in that case that the workmen's compensation payable to the employee should be in accordance with Philippine Law or the Workmen's Insurance Law of the country where the vessel is registered "whichever is greater".

The Solicitor General opines that the employment contract should be applied. For that reason, he refused to uphold the decision of the NLRC.

WHEREFORE, the judgment of the National Labor Relations Commission is reversed and set aside. The decision of the National Seamen Board dated February 26, 1981 is affirmed. No costs.

SO ORDERED.

Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.
Makasiar, J., (Chairman), reserve his vote.

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