



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JAY H. LICAYAN,

Petitioner,

G.R. No. 213679

Present:

- versus -

VELASCO, JR., * J.,
BRION, *Acting Chairperson*, **
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

SEACREST MARITIME
MANAGEMENT, INC., CLIPPER
FLEET MANAGEMENT, A/S
and/or REDENTOR ANAYA,

Respondents.

Promulgated:

25 NOV 2015

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DECISION

MENDOZA, J.:

Assailed in this petition for review on *certiorari*¹ are the March 4, 2014 Decision² and the July 23, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 130891, which reversed and set aside the March 27, 2013 Decision⁴ of the National Labor Relations Commission (NLRC), affirming the August 31, 2012 Decision⁵ of the Labor Arbiter (LA), in a complaint for disability and claim for sickness benefits, damages and attorney's fees.

The Antecedents

Petitioner Jay H. Licayan (*Licayan*) was hired as *Fitter* for the vessel, MT Clipper Ann, by its local manning agent, respondent Seacrest Maritime

* Per Special Order No. 2282, dated November 13, 2015.

** Per Special Order No. 2281, dated November 13, 2015.

¹ *Rollo*, pp. 23-49.

² *Id.* at 50-60; Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Celia C. Libre-Leagogo and Zenaida T. Galapate-Laguilles.

³ *Id.* at 61-62.

⁴ *CA rollo*, pp.44-51.

⁵ *Id.* at 224-231. Penned by Labor Arbiter Eduardo J. Carpio.

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Management, Inc. (*Seacrest*), for and in behalf of its foreign principal Nordic Tankers Marine. They executed a Philippine Overseas Employment Administration (*POEA*)-approved Contract of Employment which provided for the Standard Terms and Conditions governing the Employment of Filipino Seafarers On Board Ocean-Going Vessels. Licayan underwent a pre-employment medical examination (*PEME*) and, thereafter, was declared fit for sea service.

On March 23, 2011, Licayan boarded the vessel for his duties as Fitter for a period of seven (7) months with a basic salary of US\$698.

In addition to his main duties as *Fitter*, Licayan was also tasked to install water and oil separation fixtures and the safety equipment of the engine and the steel platforms which served as the path walk of the crew whenever the vessel was loaded with chemicals.

On September 7, 2011, Licayan suddenly felt a severe headache. He called the attention of the Master who recommended that he be examined by a doctor at the next port of call. For the time being, he was given Tylenol to relieve the pain. The Master also referred the matter to the health provider of the principal so that he could be examined by a psychiatrist.

Upon reaching the port of Cartagena, Colombia, on September 15, 2011, he was brought to Medihelp Hospital where he underwent laboratory examinations. He was initially diagnosed to be suffering from vertigo and anxiety disorder. Consequently, he was given medicines, Betazok and Zolpiden.

On September 16, 2011, the attending physician made a definitive finding that Licayan was suffering from *Trastorno or Panic Disorder*. Accordingly, he was recommended to be repatriated.

Upon arrival in Manila on September 20, 2011, Licayan was advised by his agency to report to the company-designated doctor, Dr. Natalio Alegre (*Dr. Alegre*), for treatment and management. He was directed to undergo a series of tests at St. Luke's Medical Center, to wit: blood test, hematology, x-ray on his cervical spine, 2D echo with Doppler, stress test, and ECG.

On January 25, 2012, or after more than 120 days from his initial treatment, Dr. Alegre issued a certification with his conclusion that Licayan

was suffering from Panic Disorder, Muscular Spasm-Cervical and Hypertension and that he was “unfit to work.”⁶

Licayan then underwent a more comprehensive treatment at the National Center for Mental Health. He was given medications for his illness, but his condition did not improve.

In the hope of recovering from his mental illness, Licayan sought the opinion of Dr. Elias Adamos (*Dr. Adamos*), a clinical psychologist of the Perpetual Succor Hospital in Manila, who certified, on July 2, 2012, that he was incapacitated to work permanently as a seafarer. Dr. Adamos’ medical findings were as follows:

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Axis I: Generalized Anxiety Disorder (Work-related); Anxiety Disorder associated with or secondary to toxic chemical exposure;

Axis II: None;

Axis III; None;

Axis IV: Seafare job; Excessive anxiety and worry (apprehensive expectation) occurring in persistence over the last 10 months; Work stress;

Axis V: Clinical course and prognosis is unpredictable.

His serious medical, mental and psychological condition is equivalent to Grade 1 under the Standard Contract of POEA. **He is therefore permanently incapacitated to work as a seafarer.**⁷

[Emphasis Supplied]

On account of the findings of the company-designated physician together with the above-mentioned findings of Dr. Adamos, Licayan filed a case for payment of total and permanent disability benefits.

Seacrest rejected the said claims because the injury or illness sustained by Licayan was not the result of an accident and was not work-related.

⁶ Id. at 143.

⁷ As quoted in the petition, *rollo*, p. 38.

On August 31, 2012, the LA granted Licayan's claim for permanent total disability in the amount of \$89,100.00 as provided for in the Collective Bargaining Agreement (*CBA*).

Seacrest appealed to the NLRC.

On March 27, 2013, the NLRC affirmed the findings of the LA. In a Resolution, dated May 15, 2013, the NLRC denied the motion for reconsideration filed by Seacrest.

Aggrieved, Seacrest filed with the CA a special action for *certiorari* assailing the decision of the NLRC.

On March 4, 2014, the CA *reversed* and *set aside* the NLRC decision, stating that the NLRC committed grave abuse of discretion in allowing claimant to recover in the absence of factual proof of entitlement. The CA found that Licayan failed to prove by substantial evidence that his illness could be attributed or closely connected to his line of work. It wrote:

At this juncture, We would like to point out the utterly misplaced assumption of the Labor Arbiter and public respondent that private respondent's diagnosis of Panic Disorder can be likened to that of the medical condition called schizophrenia or psychosis which the High Court declared to be compensable in *Cabuyoc v. Inter-Orient Navigation, et al.* The NLRC and the Labor Arbiter exceeded their authority in similarly attributing private respondent's state to a special mental condition such as schizophrenia when no declaration had ever been espoused by the company-designated physician and even by private respondent's own doctor who were both in the dominance to posit a peculiar medical analysis such as psychosis. Also, there had been no indication in private respondent's position paper of particular incidents on board the vessel which might have contributed to private respondent's head trauma and later on, the same developed as panic attacks, except for the sweeping and general statements that he was constantly exposed to perilous chemicals in installing water and oil separation fixtures.⁸

Accordingly, the CA disposed:

WHEREFORE, premises considered, the instant petition is **GRANTED**. Accordingly, the Decision dated March 27, 2013 and the Resolution dated May 15, 2013 of the National Labor Relations Commission, Sixth Division, in LAC No. OFW-M-11-001035-12 [NLRC-OFW-M-04-05890-12] are hereby **REVERSED** and **SET**

⁸ Id. at 17.

ASIDE. The complaint filed in the proceedings below for recovery of total permanent disability benefits is dismissed for lack of merit.

SO ORDERED.⁹

After his motion for reconsideration was denied, Licayan filed this petition for review, submitting for consideration the following

GROUND:

I

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN FINDING THAT LICAYAN HAS NOTHING TO SUPPORT HIS CLAIM OF WORK RELATEDNESS;

II

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN RULING THAT THERE WAS NO EVIDENCE THAT LICAYAN SUFFERED AN INCIDENT THAT CONTRIBUTED TO HIS PANIC ATTACK;

III

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN DENYING TO LICAYAN THE PERMANENT TOTAL DISABILITY COMPENSATION AND ATTORNEY'S FEES.¹⁰

Petitioner Licayan argues that between the findings of Dr. Adamos, a clinical psychologist and that of Dr. Alegre, a general surgeon, the findings of work-relatedness of Dr. Adamos deserve more credence; and his conclusion that Licayan suffered *Generalized Anxiety Disorder (Work-related); Anxiety disorder associated with or secondary to toxic chemical exposures* is more credible and correct.¹¹

Regarding the CA conclusion that he failed to show any incident that could have contributed to his illness, Licayan pointed out that, *first*, he was initially declared to be fit to work when he boarded the vessel to work as Fitter. *Second*, due to the long hours of laborious and strenuous work and also homesickness, he felt stressed and fatigued. *Third*, his regular stresses and fatigue were aggravated when he was given the special assignment of installing water and oil separation fixtures while the vessel was on the high seas. It turned out to be very stressful since any movement of the vessel

⁹ Id. at 18-19.

¹⁰ Id. at 39.

¹¹ Id. at 42.

might endanger the seaworthiness of the vessel and consequently the lives of the crew. The panic disorder was but a manifestation of the fact that his emotional makeup could no longer endure the stresses that the special assignment entailed.¹²

Seacrest, in its Comment,¹³ countered that the CA did not err in concluding that the record was wanting of proof, even substantial at the very least, that Licayan's mental/psychological condition was caused or aggravated by the performance of his functions on board the vessel. Seacrest pointed out that Licayan failed to establish the reasonable linkage between his illness and his work so as to persuade a rational mind to conclude that his work could have contributed to the establishment or, at the very least, aggravation of any preexisting condition he might have had.

The Court's Ruling

The core issue for resolution of the Court is whether or not the CA erred in dismissing Licayan's complaint for recovery of permanent total disability on the ground that he failed to support his claim by substantial evidence.

The Court finds merit in the petition.

Panic disorder occurs when one lives in fear of having a panic attack; and one is suffering from panic attack when he feels a sudden, overwhelming terror that has no obvious cause. Among the physical symptoms of panic attack are: a racing heart, breathing difficulties, and sweating.¹⁴ During the attack, the fear response is out of proportion for the situation, which often is not threatening. Over time, the patient will develop a constant fear of having another panic attack, which can affect daily functioning and general quality of life.¹⁵

In resolving the subject controversy, it is well to examine anew the 2000 POEA-Standard Employment Contract (*POEA-SEC*) which is deemed incorporated in the contract of employment between Seacrest and Licayan. Section 20 (B) thereof provides:

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¹² Id. at 44-45.

¹³ Id. at 67-77.

¹⁴ <<http://www.healthline.com/health/panic-disorder#Overview1>.> Last visited on October 22, 2015.

¹⁵ <<http://www.webmd.com/anxiety-panic/guide/mental-health-panic-disorder>.> Last visited on October 22, 2015.

B. 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

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of this Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and rules of compensation applicable at the time the illness or disease was contracted.

“Pursuant to the aforequoted provision, two elements must concur for an injury or illness to be compensable. First, that the injury or illness must be work-related; and second, that the work-related injury or illness must have arisen during the term of the seafarer’s employment contract.”¹⁶

The 2000 POEA-SEC defines work-related injury as “injury resulting in disability or death arising out of and in the course of employment” and 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.” Section 32-A thereof provides:

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:

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.

It must be borne in mind, however, that the list of illness/diseases in Section 32-A does not exclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties.”¹⁷ So much so that Section 20 (B) (4) of the same explicitly provides that “[t]he

¹⁶ *Centennial Transmarine, Inc. v. Quiambao*, G.R. No. 198096, July 8, 2015.

¹⁷ *Magsaysay Mitsui Osk Marine, Inc. v. Bengson*, G.R. No. 198528, October 13, 2014.

liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows: (t)hose illnesses not listed in Section 32 of this Contract are disputably presumed as work-related.” In other words, a disputable presumption is created in favor of compensability. Illnesses not listed in Section 32 are disputably presumed as work-related. This means that even if the illness is not listed under Section 32-A of the POEA-SEC as an occupational disease or illness, it will still be presumed as work-related, and it becomes incumbent on the employer to overcome the presumption.¹⁸

This disputable presumption, however, does not signify an automatic grant of compensation and/or benefits claim.¹⁹ “Concomitant with this presumption is the burden placed upon the claimant to present substantial evidence that his work conditions caused or at least increased the risk of contracting the disease and only a reasonable proof of work-connection, not direct causal relation is required to establish compensability of illnesses not included in the list of occupational diseases.”²⁰

In the case at bench, Licayan was able to prove by substantial evidence that his work conditions caused his panic disorder. He stated in his position paper that:

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7. Complainant was always exposed to the harsh conditions of the elements, the perils at sea, severe stress while being away from his family and fatigue while doing his duties and responsibilities on board the vessel.

8. This demanding nature of his job was his routine since he boarded the vessel. For this reason, he was not able to have proper rest. He has also an irregular sleep pattern since he is on call by his supervisor 24 hours a day.

9. Notwithstanding the extraordinary work load, Mr. Licayan was given an overall assessment of a conscientious worker with good engineering knowledge and experience on sea trade. A copy of the evaluation is hereto attached as ANNEX “C” and “C-1.”

10. In addition to the principal functions and duties as *Fitter*, Mr. Licayan [would] perform and install the water and oil separation fixtures. This job can only be done normally when the vessel is on dry dock so that the equipment are properly installed and fixed. However, due to excellence skill and dexterity of Mr. Licayan, he is asked by his superiors to do the same while the vessel was on voyage.

¹⁸ *Racelis v. United Philippine Lines, Inc.*, G.R. No. 198408, November 12, 2014.

¹⁹ *Jebsen Maritime, Inc. v. Ravena*, G.R. No. 200566, September 17, 2014, 735 SCRA 494, 511.

²⁰ *DOHLE-PHILMAN Manning Agency, Inc. v. Gazzingan*, G.R. No. 199568, June 17, 2015.

11. He also would install the safe equipment of the engine. He would also install the steel platforms which serve as the path walk of the crew when the vessel is loaded with chemicals.

12. This extraordinary difficult job [of] Mr. Licayan unduly put him into pressure resulting to loss of sleep, loss of appetite and emotional disorder.

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[Emphases Supplied]

Licayan also presented Dr. Adamos' diagnosis to prove that his illness was work-related and, therefore, compensable. The reasonable connection between the nature of his work and the medical condition he acquired during his stint as *Fitter* in the vessel was substantially proven. As such, pursuant to Section 20 (B) (4) of the POEA-SEC, the disputable presumption that the panic disorder he contracted was work-related arose. This condition, although not listed under Section 32-A of the POEA-SEC as an occupational disease or illness, is presumed to be work-related. It is now incumbent upon the employer to overcome this presumption.

A reexamination of the evidence presented by Seacrest, however, fails to overcome the presumption. This Court finds that the October 28, 2011 medical report of Dr. Alegre, the company-designated doctor, was too sweeping and inadequate to support a conclusion. His assessment that Licayan's panic disorder was not work-related was without basis. He did not consider the varied factors to which Licayan was exposed while on board the vessel. In fact, in the same report, he alleged:

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Mr. Licayan is diagnosed with Panic Disorder. Panic disorder is a type of anxiety disorder in which one has repeated attacks of intense fear that something bad will occur when not expected. The cause is unknown but genetics may play a role. xxx.²²

It can be deduced from the foregoing statement that the cause of panic disorder was not known and that genetics might only be one of the many causes. This finding resonates the fact that researchers until now have not determined a specific cause of this condition. Many doctors believe that it is a combination of environmental and genetic factors.²³ Thus, the assessment of Dr. Alegre is not conclusive to defeat Licayan's claim for compensation.

²¹ CA rollo, pp. 97-98.

²² Id. at 94.

²³ <<http://www.livescience.com/45553-panic-disorder.html>.> Last visited on October 22, 2015.

There is the possibility that work stress may be a cause and Licayan presented substantial evidence to prove work-connection.

Jurisprudence is indeed replete with pronouncements that it is the company-designated physician's findings which should form the basis of any disability claim of the seafarer.²⁴ It is worthy to note, however, that neither the claimant nor the labor tribunals and the courts are automatically bound by the medical report issued by the company-designated physician. The inherent merit of the said report would still have to be weighed and duly considered by the Court.²⁵

In view of the above, the Court finds that the CA erred in declaring that the NLRC gravely abused its discretion amounting to lack or in excess of jurisdiction in declaring that the illness suffered by Licayan was not work-related.

Finally, anent the nature of disability caused by his work-related illness, the Court notes that Licayan was declared unfit to work by the company-designated physician, Dr. Alegre. This finding was affirmed by the medical assessment made by Licayan's physician, Dr. Adamos, as he declared Licayan to be permanently incapacitated to work as a seafarer. Thus, the Court is inclined to rule that Licayan suffered from a permanent total disability because he was unable to earn wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do.²⁶

WHEREFORE, the petition is **GRANTED**. The March 4, 2014 Decision and the July 23, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 130891 are **REVERSED** and **SET ASIDE**. The March 27, 2013 Decision of the National Labor Relations Commission is **REINSTATED**.

SO ORDERED.

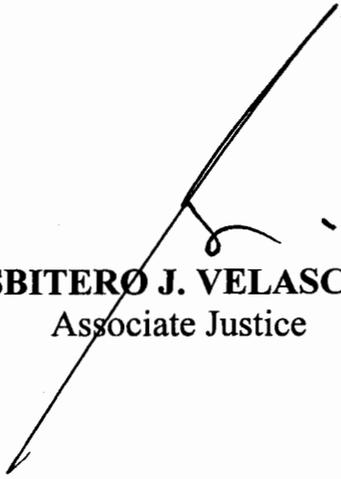

JOSE CATRAL MENDOZA
Associate Justice

²⁴ *Magsaysay Maritime Corp. v. Velasquez*, 591 Phil. 839, 849-850 (2008).

²⁵ *Ison v. Crewserve, Inc.*, G.R. No. 173951, April 16, 2012, 669 SCRA 481, 493-494.

²⁶ *Krestel Shipping Co., Inc. v. Munar*, G.R. No. 198501, January 30, 2013, 689 SCRA 795, 816.

WE CONCUR:



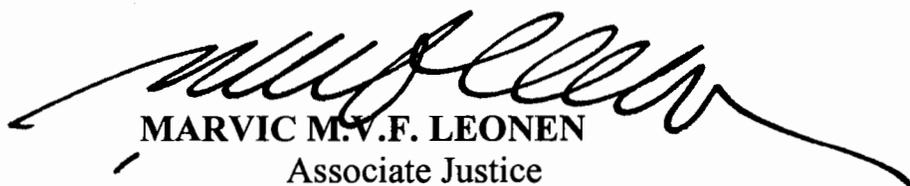
PRESBITERO J. VELASCO, JR.
Associate Justice



ARTURO D. BRION
Associate Justice
Acting Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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