

Republic of the Philippines
COURT OF APPEALS
Manila

SPECIAL FIFTEENTH DIVISION

EMERLINDA A. STA. RITA,
For Herself And In Behalf of
Rene A. Sta. Maria,
Petitioner,
- versus -

CA-G.R. SP No. 80610

Members:
Dacudao, Chairman,
Bersamin, and
*Veloso, JJ.

NATIONAL LABOR RELATIONS
COMMISSION, PRUDENTIAL
SHIPPING AND MANAGEMENT
CORPORATION and ZENITH
SHIPPING INVESTMENT,
LIMITED,
Respondents.

Promulgated:

X-----X

DECISION

DACUDAO, J.:

Assailed in this petition for certiorari, as tainted with grave abuse of discretion amounting to lack or excess of jurisdiction, are: (1) The Decision dated May 26, 2003¹ of the National Labor Relations Commission, in NLRC-NCR-CA No. 032917-02, which reversed the decision dated June 21, 2002² of Labor Arbiter Salimathar B. Nambi, in NLRC-NCR-OFW Case No. (M)-01-06-1049-

*Vice J. Librea-Leagogo, as per Office Order No. 07-04-EV, dated October 18, 2004.

¹ Annex M, Petition; Rollo, pp. 126-131.

² Annex K, Petition; Rollo, pp. 80-89.

00; and (2) The Resolution dated September 4, 2003³ of the same government agency denying petitioner's motion for reconsideration thereon.

This case stemmed from a complaint for death benefits, burial expenses, sickness allowance, damages and attorney's fees instituted by petitioner Emerlinda A. Sta. Rita in behalf of her deceased husband, Virgilio C. Sta. Rita, against the private respondents Prudential Shipping and Management Corporation and the Zenith Shipping Investment, Limited.

In her position paper,⁴ petitioner Emerlinda alleged that her husband Virgilio was hired by the private respondent Prudential Shipping & Management Corporation as an oiler for its foreign principal, the private respondent Zenith Shipping & Investment, Limited, in the latter's vessel MV Gulf Wind; that her late husband's tour of duty covered a period of 12 months; that, prior to his employment, Virgilio underwent a pre-employment medical examination where he was declared fit for work by the company-designated physician; that on May 20, 1999 Virgilio was deployed to his vessel and started working thereat as an oiler; that, as an oiler, Virgilio was exposed to all kinds of foul-smelling chemicals and extremely harsh working conditions in the engine room; that, at times, Virgilio would forego his lunch and rest periods in order to finish his work; that, more often, he also lifted heavy equipment and carried supplies on board; that on the last week of February 2000, Virgilio experienced body pains especially when lifting heavy objects; that at the time he could hardly eat as he had lost his appetite; that, at times, too, his body and muscle pains were

³ Annex N, Petition; Rollo, pp. 132-133.

⁴ Annex I, Petition; Rollo, pp. 48-55.

accompanied with fever; that, when he was referred to a physician in New Orleans, United States, the doctor's first impression was that Virgilio had umbilical hernia; that the same physician recommended surgical repair and advised Virgilio to avoid lifting heavy objects; that, for appropriate medical treatment, the doctor advised Virgilio to be repatriated; that, upon repatriation to the Philippines on March 8, 2000, Virgilio was immediately referred for treatment to the Metropolitan Hospital here in Manila, and on March 24, 2000, a surgical operation on his umbilical hernia was performed; that, five days later, he underwent abdominal ultrasound due to ascitis (enlargement of abdomen), which manifested on the day of surgery; that the ultrasound indicated that he had liver cirrhosis; that Virgilio's request for medical assistance from private respondents for his liver treatment was rejected, and he was told that said ailment was not related to his umbilical hernia; that, as a result thereof, Virgilio had to spend his sick wages for the treatment of said ailment; that, later, he was accommodated at the Philippine General Hospital (or PGH) for free medication and hospitalization; that, on February 6, 2001, at the PGH, he was diagnosed to have congestive heart failure and acute renal failure; that Virgilio thereafter underwent several tests, such as electrocardiogram or ECG, chest x-ray and gall bladder ultrasound; that on February 18, 2001 Virgilio was admitted to the intensive care unit of the PGH for difficulty of breathing (dyspnea); that on March 13 and 14, 2001 he was admitted to the emergency room of the PGH due to liver cirrhosis; that on March 18, 2001

Virgilio died; that the immediate cause of his death is “cardiopulmonary arrest, metabolic acidosis r/o fatal arrhythmia,” while the antecedent cause is “acute renal failure” and the underlying cause is “hepatocellular carcinoma;” and that she and her son Rene A. Sta. Maria are the only surviving heirs of Virgilio.

Petitioner Emerlinda further alleged that, since Virgilio’s illness supervened during his employment, she and their son Rene are entitled to death benefits in the amounts of U.S. \$50,000.00 and \$7,000.00 respectively, conformably with section 20(A), paragraph 1 of the Standard Employment Contract for Seafarers; as well as U.S. \$1,000.00 for burial expenses pursuant to section 20(A), paragraph 4(c) of the same contract; and that she and her son are likewise entitled to moral damages on account of the death of Virgilio.

In contrast, respondents averred in their position paper⁵ that, after an uneventful ten months on board the vessel, Virgilio complained of umbilical pain and swelling, which lasted for two weeks; that on March 3, 2000 he was sent to the Marine Medical Unit at New Orleans, Louisiana, United States, where he was diagnosed to be suffering from umbilical hernia, and found unfit for duty; that he was recommended to undergo surgical repair; that, later, he was repatriated to the Philippines; that he arrived in Manila on March 6, 2000; that Virgilio was referred to the company-designated physician at the Metropolitan Hospital here in Manila; that on March 23, 2000 he was admitted in said hospital to undergo umbilical herniorrhapy which he tolerated well; that Virgilio was

⁵ Annex H, Petition; Rollo, pp. 25-38.

also given regular monitoring check-ups; that, by May 4, 2000, his progress continued and his attending physicians anticipated that their patient would be fit to return to work; that, by June 20, 2000, Virgilio was found fit to work and he in fact executed a Certificate of Fitness for Work; that, thereafter, they no longer communicated with Virgilio since his contract was already terminated upon his arrival at his point of hire; and that, moreover, they paid all the residual benefits due him.

Private respondents added that petitioner is not entitled to death benefits because her husband Virgilio died long after he was repatriated for medical reasons, and long after he was cured of his illness; that his repatriation resulted in the termination of the contract; besides which, the cause of Virgilio's death is totally unrelated to the illness for which he was repatriated; and that petitioner cannot be entitled to damages because they (private respondents) had at all times dealt with petitioner in good faith and with complete lack of malice.

In her reply⁶ to private respondents' position paper, petitioner averred that the cause of Virgilio's death is traceable to the illness he acquired during employment; that private respondents' refusal to give her and her son Rene death compensation indicates the malevolent manner with which they treated Virgilio when he was still in their employ; and that because of these, she suffered sleepless nights, mental torture, and serious anxiety when private

⁶ Annex J, Petition; Rollo, pp. 76-79.

respondents unjustifiably rejected her lawful and valid claims under the Labor Code.

On June 21, 2002 the Labor Arbiter gave judgment,⁷ the decretal part whereof reads:

“WHEREFORE, premises considered, judgment is hereby rendered ordering respondents Prudential Shipping and Management Corporation and Zenith Shipping Investment, Inc., jointly and severally, to pay herein surviving spouse complainant Emerlinda A. Sta. Rita and her child, Rene, surnamed Sta. Rita, the following:

“1. The sum of US\$1,340.00 as sickness allowance;

“2. The sum of US\$50,000.00 as death compensation benefits, plus the sum of US\$7,000.00 for herein minor child Rene;

“3. The sum of US\$1,000.00 burial expenses; and

“4. The further sum of ten percent (10%) of the monetary award due complainant, or US\$5,934.00, as attorney’s fees.

“All other claims are dismissed for lack of merit.

“SO ORDERED.

“Quezon City, Philippines, June 21, 2002.

“SALIMATHAR V. NAMBI

“Labor Arbiter”

From that decision, private respondents appealed to the NLRC. They argued in their appeal memorandum⁸ that there must be a causal connection between the death of the employee and his

⁷ Annex K, Petition; Rollo, pp. 80-89.

⁸ Annex L, Petition; Rollo, pp. 90-109.

work or employment viz. that the cause of death was an illness or injury suffered during employment; that neither umbilical hernia nor liver cirrhosis was the fatal illness that occasioned or caused Virgilio's death; that congestive heart failure secondary to acute renal failure is not related to either umbilical hernia or liver cirrhosis; that had Virgilio died as a result of either umbilical hernia or liver cirrhosis, there would have been no issue about the compensability of his death; and that there is no proof that Virgilio was exposed to toxic, obnoxious or foul-smelling chemicals, which could have aggravated his renal failure or congestive heart failure.

On May 26, 2003 the NLRC in the assailed Decision⁹ reversed the Labor Arbiter, holding this wise:

“Did the Labor Arbiter err in awarding death compensation benefits, burial expenses and sickness allowance to the [petitioner]?”

“Paragraph A, Section 20 of the POEA Standard Contract reads:

‘A. Compensation and Benefits for Death

‘1. In case of death of the seafarer during the term of his contract, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four children, at the exchange rate prevailing during the time of payment.

‘xxx

⁹ Annex M, Petition; Rollo, pp. 126-131. Decision penned by Commissioner, Angelita A. Gacutan, with Presiding Commissioner Raul T. Aquino and Victoriano R. Calaycay, concurring.

'c. The employer shall pay the beneficiaries of the seafarer the Philippine currency equivalent to the amount of One Thousand US dollars (US\$1,000) for burial expenses at the exchange rate prevailing during the time of payment.'

"Paragraph B, Section 18 of the same contract reads:

'B. The employment of the seafarer is also terminated when the seafarer arrives at the point of hire for any of the following reasons:

'1. When the seafarer signs-off and is disembarked for medical reasons pursuant to Section 20 (B) (4) of this contract.

'xxx

"In the instant case, complainant's husband was disembarked due to illness (umbilical hernia). Applying paragraph B, section 18 of the POEA Standard Format, his employment was terminated when he arrived in Manila on March 8, 2000. He died one year later, or on March 18, 2001 (records, p. 54). Applying Paragraph A, Section 20 of the POEA Standard Contract, his beneficiaries are not entitled to death compensation benefits and burial expenses because he did not die during the term of his contract.

"Nowhere in the complainant's position paper (records, pp. 31-38) is there a discussion about, or prayer for, sickness allowance. The award thereof to the complainant is therefore baseless and unwarranted. Besides, based on documentary evidence (records, pp. 103-105) attached to respondents' appeal memorandum, there can be no question that the respondents have long since fully discharged their liability for sickness allowance."

Petitioner filed a motion for reconsideration thereon.

But, on September 4, 2003 the NLRC in the assailed Resolution¹⁰ thumbed down petitioner's motion for reconsideration.

Hence, the present recourse with petitioner now contending that the NLRC gravely abused its discretion in reversing the Labor Arbiter.

The petition is meritorious.

The claim for death benefits that petitioner filed is based on the standard employment contract for Filipino seafarers. Significantly, under the contract, compensability of illness or death of a seaman need not depend on whether the illness was work connected or not. It is sufficient that the illness or death occurred during the term or in the course of the employment contract.¹¹ Indeed, Section 20(A) of the standard contract mentions the phrase "in case of death of the seafarer **during** the term of his contract xxx," while, Section 20(B) indicates "the liabilities of the employer when the seafarer suffers injury or illness **during** the term of his contract xxx."

Here, private respondents unwittingly argued in their comment that, had Virgilio died due to either umbilical hernia or cirrhosis, there would have been no question as to petitioner's entitlement to death benefits.¹² The argument is an eye-opener and a virtual admission of their liability and must be held up against

¹⁰ Annex N, Petition; Rollo, pp. 132-133.

¹¹ *Seagull Shipmanagement and Transport, Inc. v. NLRC*, 333 SCRA 236, 242 (2000).

¹² Rollo, p. 152.

private respondents, for, indeed, Virgilio's death was presumably connected with cirrhosis, which he acquired during the term of his contract.

Indeed, renal failure can occur as a complication of cirrhosis arising secondary to portal hypertension, portal systemic shunting, other circulatory disturbances and impaired hepatic metabolic function.¹³ With renal failure, metabolic acidosis and hyperkalemia and overt uremia can ensue,¹⁴ which have cardiovascular complications including cardiomyopathy.¹⁵ Cardiomyopathy can cause the heart to pump blood ineffectively into the circulation, leading to decreased cardiac output, inadequate organ and tissue perfusion and function in the so-called shock state.¹⁶ Also, with disturbed ventricular contraction in cardiomyopathy, congestive heart failure will develop, which on the other hand, has as one of its components pulmonary edema.¹⁷ The pulmonary edema will compromise lung ventilation, and gas exchange will be impaired as fluid leaks from the circulation into the lung tissue which if untreated may lead to suffocation.¹⁸ Shock on top of respiratory failure is actually the definition of cardio-pulmonary arrest,¹⁹ which was the ultimate cause of Virgilio's death.

¹³ The Merck Manual of Diagnosis and Therapy, 17th Edition (1999), p. 374.

¹⁴ The Merck Manual of Diagnosis and Therapy, *supra.*, p. 1845.

¹⁵ The Merck Manual of Diagnosis and Therapy, *supra.*, p. 884.

¹⁶ The Merck Manual of Diagnosis and Therapy, *supra.*, p. 1705.

¹⁷ The Merck Manual of Diagnosis and Therapy, *supra.*, pp. 1685, 1687.

¹⁸ Essentials of Human Anatomy and Physiology by Elaine N. Marieb, 7th Edition (2004), p. 339.

¹⁹ The Merck Manual of Diagnosis and Therapy, *supra.*, p. 1740.

Because his pre-employment examination indicated that he was not at all sick or ill, it may well be presumed that Virgilio contracted cirrhosis during his employment; hence, his death, which is traceable to cirrhosis, ought to be, as it is, compensable.

In *More Maritime Agencies, Inc. v. NLRC*,²⁰ the finding by the Philippine Overseas Employment Administration that the worker was fit for work at the point of hire was duly taken into account by the Supreme Court in holding that the worker's illness was not pre-existing or prior to his overseas employment.

Besides which, the possibility that Virgilio's work as oiler contributed to the development or aggravation of his cirrhosis is not at all remote, as the documented etiology for cirrhosis includes not only infection with hepatitis B or C, altered immune response, biliary obstruction, vascular disturbance, diabetes mellitus, but also toxins, metabolic disorders like hemochromatosis, Wilson's disease and even malnutrition.²¹

Also, while hepatocellular carcinoma may arise only as a complication of cirrhosis,²² one form of hepatocellular carcinoma called angiosarcoma can develop secondary to exposure to vinyl chloride.²³ Vinyl chloride is abundantly present in plastics.²⁴

²⁰ 307 SCRA 189, 197 (1999).

²¹ The Merck Manual of Diagnosis and Therapy, *supra.*, pp. 372-373.

²² Perspectives on Pathophysiology by Copstead, 1995, p. 772.

²³ The Merck Manual of Diagnosis and Therapy, *supra.*, p. 399.

²⁴ World of Chemistry by Joesten, Johnston and Netterville, 1991, p. 518.

Here, Virgilio worked in the engine room where he was necessarily exposed to chemicals, which may include iron exposure which is associated with the development of hemochromatosis, and copper exposure, which, on the other hand, leads to Wilson's disease, both in susceptible individuals. In *Santos v. Employees' Compensation Commission*,²⁵ cirrhosis was held compensable because the worker's exposure to chemicals in connection with his job as a welder likely caused poisoning and malfunction of his liver. On top of these, Virgilio's strenuous work as an oiler may have weakened his state of health, and his having skipped meals to attend to his work rendered him susceptible to malnutrition. In *Librea v. Employees' Compensation Commission*,²⁶ cirrhosis was held compensable because physical strain and missing one's meals weakened the worker's health and made him vulnerable to malnutrition which can lead to cirrhosis.

The invariable teaching of jurisprudence on this point is that it is **enough** that the hypothesis on which the workmen's claim is based is **probable**. Probability **not** certainty is the touchstone for compensability.²⁷ And, in this case, we do declare that petitioner's case has successfully passed that test.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the assailed decision and resolution of the NLRC must be, as they

²⁵ 221 SCRA 182 (1993).

²⁶ 203 SCRA 545 (1991).

²⁷ *Nemaria v. Employees' Compensation Commission*, 155 SCRA 166, 172 (1987); citing *Sarmiento v. Employees' Compensation Commission*, 144 SCRA 421 (1986).

hereby are, **REVERSED**, and the June 21, 2002 judgment of Labor Arbiter Salimathar V. Nambi **REINSTATED** in toto. Without costs.

SO ORDERED.

RENATO C. DACUDAO
Associate Justice
Chairman

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice
Senior Member

VICENTE S.E. VELOSO
Associate Justice
Acting Member

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

RENATO C. DACUDAO
Associate Justice
Chairman, Special Fifteenth Division