

KLAVENESS MARITIME AGENCY

SECOND DIVISION

KLAVENESS MARITIME AGENCY, G.R. No. 168560
INC., and TORVALD KLAVENESS

CO., A/S, Present:

Petitioners,

QUISUMBING, *J.*,

Chairperson,

CARPIO,

- versus - CARPIO MORALES,

TINGA, and

VELASCO, JR., *JJ.*

BENEFICIARIES OF THE LATE

SECOND OFFICER ANTHONY

S. ALLAS, represented by CHERYL Promulgated:

Z. ALLAS,

Respondents. January 28, 2008

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D E C I S I O N

TINGA, *J.*:

This treats of the petition for review on certiorari assailing the Decision^[1] and Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 84794 entitled, *Beneficiaries of the Late Second Officer Anthony S. Allas, represented by Cheryl Z. Allas versus National Labor Relations Commission, Klaveness Maritime Agency, Inc. and Torvald Klaveness & Co., A/S.* promulgated on 31 January 2005 and 16 June 2005, respectively, which reversed the 30 December 2003 Resolution^[3] of the National Labor Relations Commission (NLRC).

Anthony Allas (the deceased), a seafarer, was employed by petitioner Klaveness Maritime Agency, Inc. in various capacities and under different contracts of employment from 4 June 1990 to 20 September 1999. Prior to his last contract (for the period 1 February 1999 to 20 September

1999), he experienced painful urination which the company-designated physician suspected to be urinary tract infection and for which he was given a prescription. While aboard Probo Koala, the deceased allegedly occasionally suffered from painful urination, sometimes exhibiting traces of blood in his urine, but the pain would subside after taking the prescribed medication.

After the completion of his contract, the deceased sought a second opinion on his condition, this time from a private specialist in urology-surgery. It was then discovered that he was suffering from urinary bladder cancer. On 6 January 2000, he underwent a partial cystectomy for the removal of the malignant mass. The private physician assured him that with follow-up treatment and management, he would be subsequently cured and be fit to work. About three months after the surgery, the deceased sought another deployment with petitioner. He was, however, refused employment because he was declared medically unfit when the company-designated physician noted his ailment and recent surgery.

By 9 August 2000, the deceaseds condition worsened with the cancer reaching the advanced stage and spreading through his chest and abdomen. He died on 5 March 2001, leaving behind a wife and two minor children. The cause of death was listed as cardio-respiratory arrest secondary to urinary bladder cancer with metastasis.^[4]

The deceaseds heirs, respondents herein, filed a complaint with the Labor Arbiter for death and compensation benefits under the POEA Standard Employment Contract (Standard Contract)^[5] and/or NIS CBA and for attorneys fees. The Labor Arbiter dismissed the complaint for lack of merit. According to the Labor Arbiter, the deceaseds death could not be compensated for because the same did not occur during the term of his employment contract. Likewise, it was not shown that his illness was work-related.^[6] On appeal, the NLRC affirmed the Labor Arbiters Decision dated 30 December 2003.^[7] A subsequent motion for reconsideration was denied by the NLRC.^[8]

The case was elevated to the Court of Appeals via an original action for certiorari, with the heirs imputing grave abuse of discretion on the part of the

NLRC when it denied their claim for death benefits. The appellate court granted the petition, ruling that compensability under the Standard Contract should be understood to cover an illness which led to the death of a seafarer occurring during the term of the employment contract, and should not be limited to death occurring during the term of his employment. It held that while the exact cause of cancer was still unknown, it is a disease which is not contracted and developed overnight but rather progresses in different stages. Thus, there was a likelihood that the disease was contracted by the deceased while he was onboard one of petitioners ships.^[9] The Court of Appeals ordered:

x x x Accordingly, the private respondent is ordered to pay the petitioners the amount FIFTY THOUSAND DOLLARS (US\$50,000), SEVEN THOUSAND DOLLARS (US\$7,000), for each of the two minor children and ONE THOUSAND DOLLARS (US\$1,000) as burial allowance, pursuant to Section 20(A) of the POEA-prescribed Standard Employment Contract.

SO ORDERED.^[10]

Petitioner sought a reconsideration of the decision, but its motion was denied by the Court of Appeals.^[11]

Petitioner now claims that it is erroneous on the part of the Court of Appeals to reverse the decision of the NLRC because the same is supported by substantial evidence contained in the records of the case. Moreover, the Labor Arbiter and the NLRC concur in their factual findings upon which both based their similar conclusions. In addition, petitioner argues that the Standard Contract provides death benefits only to beneficiaries of seafarers who die during the term of the contract. Thus the heirs are not entitled to death benefits because the deceased died more than one and a half years after completion of the contract. It claims that the statements about the deceaseds condition during the term of his contract (*i.e.*, bouts of painful urination) are hearsay, being based merely on what the deceased told his wife. Besides, the deceased failed to inform his superiors about the pain he was suffering from while aboard the ship, thus, he was not properly diagnosed and appropriately treated. Moreover, the fit to work declaration in the deceaseds Pre-employment Medical Examination (PEME) is not a conclusion that he was free from any ailment prior to his deployment, the PEME not being exploratory in nature. Finally, petitioner claims that Allas heirs failed to adduce any evidence that the risk of contracting bladder cancer was increased by his working conditions.^[12]

In their Comment,^[13] respondents invoke the liberal interpretation of the provisions of the Standard Contract, particularly Section 20 (A) 4 thereof, such that it should be read to mean that it is sufficient that the illness which led to the death occurred during the term of the employment contract, and that the illness which led to the death need not be work-connected.

The resolution of the case hinges on one ultimate question of law, which is, whether, under the Standard Contract, the death of a seafarer after the term of his contract entitles his heirs to death benefits.

The answer is no. The petition is therefore meritorious.

Central to the resolution of the case are the provisions of Section 20 of the Standard Contract, which read:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR DEATH

1. In the case of **work-related 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 (4) children, at the exchange rate prevailing during the time of payment.

x x x

4. The other liabilities of the employer when the seafarer **dies as a result of work-related injury or illness during the term of employment** are as follows:

- a. The employer shall pay the deceaseds beneficiary all outstanding obligations due the seafarer under this Contract.
- b. The employer shall transport the remains and personal effects of the seafarer to the Philippines at employers expense except if the death

occurred in a port where local government laws or regulations do not permit the transport of such remains. In this case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the masters best judgment. In all cases, the employer/master shall communicate with the manning agency to advi[c]e for disposition of seafarers remains.

- 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.(Emphasis supplied)^[14]

This Court, in *Gau Sheng Phils., Inc. v. Joaquin, Hermogenes v. Osco Shipping Services, Inc.*,^[15] and *Prudential Shipping and Management Corporation v. Sta. Rita*,^[16] declared that in order to avail of death benefits, the death of the employee should occur during the effectivity of the employment contract. As stated in *Prudential*,

The death of a seaman during the term of employment makes the employer liable to his heirs for death compensation benefits. Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable. However, if the seaman dies after the termination of his contract of employment, his beneficiaries are not entitled to the death benefits enumerated above.^[17]

It is therefore error on the part of the Court of Appeals to declare that x x x Section 20(A)4 should be read to mean that it is sufficient that the illness which led to the death occurred during the term of the employment contract.^[18] It is an interpretation clearly not in accord with the decisions of this Court.

The deceaseds last contract with petitioners was finished uneventfully on 20 September 1999. He died on 5 March 2001, one and a half years after the termination of his employment. His heirs, therefore, are not entitled to death benefits under the Standard Contract.

In justifying the grant of death benefits, the heirs rely on the cases of *Seagull Ship Management and Transport, Inc. v. NLRC*,^[19] *NFD International Manning Agents, Inc. v. NLRC*,^[20] *Interorient Maritime Enterprises, Inc. v. NLRC*^[21] and *Wallem Maritime Services Inc. v. NLRC*.^[22] However, a review of the said cases reveals that they are not applicable to the instant case.

Seagull Ship Management and *NFD International Manning Agents* are about seafarers claims for disability, and not death, benefits after repatriation. On the other hand, *Interorient Maritime* concerns the death of a seafarer who was killed in-transit while being repatriated. In the said case, a seafarer who was suffering from a mental disorder was shot when he attempted to attack a policeman while at a stopover in Bangkok, Thailand. He was already repatriated and was heading to Manila when the incident occurred. The Court, finding that the death was not due to his willful act, and noting that the responsibility of the employer is to see to it that the seafarer is duly repatriated to the point of hiring (Manila), ruled that the seafarers death is compensable. Otherwise stated, when said seafarer died, his contract was still in effect since termination of employment occurs when the seafarer signs off from the vessel and arrives at the point of hire.^[23]

Meanwhile, the case of *Wallem Maritime Services Inc.* is about a seafarer whose employment contract was preterminated due to mutual consent. The Court found that said seafarers discharge was due to his already deteriorating physical condition, as buttressed by the fact that he was hospitalized two days after his arrival in the Philippines and that he died three months after, the cause of his death being septicemia, disseminated intravascular coagulations, septecalmia, pulmonary congestion, multiple intestinal obstruction secondary to multiple adhesions.^[24] In the said case, the Court allowed recovery of death benefits after finding that there was a reasonable connection between the seafarers job and his lung infection which developed into septicemia and caused his death.

Even if we are to consider the possibility of compensation for the death after the termination of the employment contract on account of a work-related illness, the outcome of this case would still not be akin to our resolution in *Wallem*. In the said case, there appears to be substantial evidence that the seafarer was suffering from the illness while he was still on-board and that said illness was the reason for the termination of the employment contract. There is none in the case at bar.

The deceased suffered from, and died due to, urinary bladder cancer. While cancer of the epithelial lining of the bladder (papilloma of the bladder)^[25] is listed as an occupational disease in Section 32-A of the Standard Contract, it is not clear that this is the type of cancer that the deceased suffered from. In

addition, Section 32-A lays down several conditions before a disability or death may be considered compensable, to wit:

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 seafarers work must involve the risks described herein;
2. The disease was contracted as a result of the seafarers exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the seafarer.^[26]

Bladder cancer refers to any of the several types of malignant growths of the urinary bladder. The most common symptoms of bladder cancer include blood in the urine (hematuria), pain or burning sensation during urination without evidence of urinary tract infection, and change in bladder habits, such as having to urinate more often or feeling the strong urge to urinate without producing much urine. However, these symptoms are nonspecific and may be linked with other conditions that have nothing to do with cancer,^[27] such as benign tumors, bladder stones, an overactive bladder, or an enlarged prostate.^[28]

It is not yet known what causes most bladder cancers, but experts have identified major risk factors such as smoking, working in industries which use aromatic amines, as well as those in the rubber, leather, textile, paint product and printing companies. Other workers with increased risk include painters, hairdressers, machinists, printers and truck drivers (exposure to diesel fumes). Race, increasing age, gender, chronic bladder inflammation, personal

history of bladder cancer, bladder birth defects, genetics, chemotherapy and radiation therapy are also risk factors for bladder cancer.^[29]

The deceased allegedly suffered bouts of painful urination while on-board petitioners vessel. The pain would however subside upon the taking of pain relievers. Nevertheless, in the absence of substantial evidence, we cannot conclude that the pain was due to cancer. After all, painful urination is non specific to cancer and may be linked to other conditions. Moreover, there was no indication that petitioner was made aware of such painful spells while the deceased was on-board.

Respondents were unable to adduce evidence that the deceaseds work exposed him to the chemicals suspected to increase the risks of acquiring bladder cancer. Neither were they able to prove that his bladder cancer was acquired during his employment. As we earlier noted, ones predisposition to develop cancer is affected not only by ones work, but also by many factors outside of ones working environment. In the absence of substantial evidence, the deceaseds working conditions cannot be assumed to have increased the risk of contracting bladder cancer.

While it is true that labor contracts are impressed with public interest and the provisions of the POEA Standard Employment Contract must be construed fairly, reasonably and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels,^[30] we should always be mindful that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.^[31]

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 84794 are hereby REVERSED and SET ASIDE. The 30 December 2003 Resolution of the NLRC is REINSTATED.

SO ORDERED.

Justice

DANTE O. TINGA *Associate*

WE CONCUR:

LEONARDO A. QUISUMBING
Associate Justice
Chairperson

ANTONIO T. CARPIO CONCHITA CARPIO MORALES
Associate Justice Associate Justice

PRESBITERO J. VELASCO, JR.
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 Courts Division.

LEONARDO A. QUISUMBING
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairpersons Attestation, it is hereby certified 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 Courts Division.

REYNATO S. PUNO
Chief Justice

^[1]*Rollo*, pp. 15-24. Penned by Associate Justice Bienvenido L. Reyes, with Justices Eugenio S. Labitoria and Arcangelita Romilla-Lontok concurring.

^[2]*Id.* at 26-27.

^[3]*Id.* at 212-224.

^[4]*CA rollo*, p. 86.

^[5]Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels.

^[6]*CA rollo*, pp. 119-124.

^[7]*Supra* note 3.

^[8]*CA rollo*, pp. 56-57.

^[9]*Supra* note 1.

^[10]Id. at 78.

^[11]Supra note 2.

^[12]*Rollo*, pp. 30-63.

^[13]Id. at 135-177.

^[14]Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels, Compensation Benefits, Sec. 20.

^[15]G.R. No. 141505, 18 August 2005, 467 SCRA 301, 309. In this case, the Court, citing *NFD International Manning Agents v. National Labor Relations Commission*, 284 SCRA 239, 247 (1998), had the occasion to rule that:

x x x it is clear from the provisions of the Standard Employment Contract that the only condition for compensability of a seafarers death is that such death must occur during the effectivity of the seafarers contract of employment.

^[16]G.R. No. 166580, 8 February 2007, 515 SCRA 157.

^[17]Id. at 168-169

^[18]*Rollo*, p. 74

^[19]388 Phil. 906 (2000).

^[20]336 Phil. 466 (1997).

^[21]330 Phil. 493 (1996).

^[22]376 Phil. 738 (1999).

^[23]Sec. 18 of the Standard Contract reads:

SECTION 18. TERMINATION OF EMPLOYMENT

A. The employment of the seafarer shall cease when the seafarer completes his period of contractual service aboard the vessel, signs-of from the vessel and arrives at the point of hire.

^[24]*Wallem Maritime Services, Inc. v. NLRC*, Supra note 19 at 746.

^[25]Cancer of the epithelial lining of the bladder. (Papilloma of the bladder) Work involving exposure to alphanaphthylamin or benzidine or any part of the salts; and auramine or magenta; Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels, Compensation Benefits, Sec. 20.

^[26]Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels.

^[27]http://www.emedicinehealth.com/bladder_cancer/article_em.htm. (Date last visited: 3 January 2008).

^[28]http://www.cancer.org/docroot/CR/content/CRI_2_4_3X. (Date last visited: 3 January 2008).

^[29]Id.

^[30]*Wallem Maritime Services, Inc. v. NLRC*, supra note 19 at 749.

^[31]*Homeowners Savings and Loan Association, Inc. v. NLRB*, 330 Phil. 979 (1996).