

Republic of the Philippines

Supreme Court

Manila

THIRD DIVISION

**LYDIA ESCARCHA, for and in
behalf of JOSEPH ERWIN M.
ESCARCHA, SHEILA MAY
ESCARCHA, and ALYSSA M.
ESCARCHA,**

Petitioner,

- versus -

**LEONIS NAVIGATION CO., INC.
and/or WORLD MARINE
PANAMA, S.A.,**

G.R. No. 182740

Present:

CARPIO MORALES, *J., Chairperson,*

BRION,

BERSAMIN,

*ABAD, and

VILLARAMA, JR., *JJ.*

* * Designated additional Member of the Third Division, in view of the retirement of former Chief Justice Reynato S. Puno, per Special Order No. 843 dated May 17, 2010.

Respondents.

Promulgated:

July 5, 2010

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DECISION

BRION, J.:

We review in this petition for review on *certiorari*¹[1] the October 17, 2007 decision²[2] and the April 29, 2008 resolution³[3] of the Court of Appeals (*CA*) in CA-G.R. SP No. 98719 that reversed and set aside the December 29, 2006⁴[4] and the March 12, 2007⁵[5] resolutions of the National Labor Relations Commission (*NLRC*). The *NLRC* resolutions, in turn, reversed the Labor Arbiter's decision,⁶[6] dismissing the complaint for death compensation benefits of petitioner Lydia Escarcha, for and in behalf of Joseph Erwin Escarcha, Sheila May Escarcha, and Alyssa Escarcha (collectively, *the petitioners*).

1[1] Under Rule 45 of the Revised Rules of Court.

2 [2] Penned by Associate Justice Rodrigo V. Cosico, and concurred in by Associate Justice Hakim S. Abdulwahid and Associate Justice Arturo G. Tayag; *rollo*, pp. 21-27.

3[3] *Id.* at 28.

4[4] *Id.* at 29-41.

5[5] *Id.* at 42-43.

6[6] *Id.* at 54-60.

ANTECEDENT FACTS

On February 16, 1999, Eduardo S. Escarcha (*Eduardo*) entered into a one-year contract of employment with Leonis Navigation Company, Inc. and World Marine Panama, S.A. (collectively, *the respondents*). He was employed as a First Engineer on board the *M.V. Diamond Glory* with a basic monthly salary of US\$950.00.⁷[7] Eduardo submitted himself to the required Pre-Employment Medical Examination (*PEME*), and was pronounced fit to work by the company-designated physician.⁸[8] He boarded the *M.V. Diamond Glory* on March 11, 1999.

Sometime in April 1999 (or roughly a month after coming on board), Eduardo became ill while *M.V. Diamond Glory* was on its way to New Orleans. On May 3, 1999, Eduardo was brought to the Touro Infirmary when *M.V. Diamond Glory* docked at the port of New Orleans. Eduardo was found to be suffering from *serious febrile illness*. He was also declared “unfit for regular duty” and “unfit to travel.”⁹[9]

⁷[7] *Id.* at 71.

⁸[8] *Id.* at 70.

⁹[9] *Id.* at 72.

Eduardo's condition worsened despite medical attention, and he became comatose. The attending physician, Dr. James R. Patterson (*Dr. Patterson*), found Eduardo to be suffering from *advanced mycobacterium tuberculosis*, *advanced Human Immunodeficiency Virus (HIV) disease*, *cardiac dysrhythmias*, and *anemia*. Dr. Patterson's discharge summary also stated that Eduardo's Acquired Immune Deficiency Syndrome (*AIDS*) was under treatment.¹⁰[10]

On June 17, 1999, Eduardo was repatriated to the Philippines, and was confined at the San Lazaro Hospital for further treatment and evaluation. He was discharged from the hospital after one and a half months, but was ordered to report back for a series of medical check-ups.

Despite continued treatment, Eduardo died on June 9, 2001 (approximately two years after repatriation). The death certificate listed *pneumonia* as the immediate cause; *Pulmonary Tuberculosis*, *Tuberculosis Meningitis*, *Disseminated Candidiasis*, *Anemia Secondary to Chronic Disease*, *Wasting Syndrome*, *Scabies*, and *Seborrheic Dermatitis* as antecedent causes; and AIDS as underlying cause.¹¹ [11]

At the time of his death, Eduardo left behind his wife Lydia, and their three children – Joseph Erwin, Sheila May, and Alyssa.

¹⁰[10] CA *rollo*, p. 97.

¹¹[11] *Rollo*, p. 75.

The petitioners demanded the payment of death benefits from the respondents which refused to grant the demand. The petitioners then sought the assistance of the Associated Marine Officers' and Seamen's Union of the Philippines, Eduardo's labor union, in pursuing their claim. A series of grievance meetings was held which proved unfruitful. With the failure of conciliation, the petitioners proceeded to file their complaint for death compensation benefits against the respondents with the NLRC.

THE LABOR ARBITRATION RULINGS

Labor Arbiter Jose G. de Vera (*LA de Vera*) dismissed the petitioners' complaint.¹²[12] He held that Eduardo's illness was pre-existing; Eduardo was already afflicted with HIV when he boarded the respondents' vessel. LA de Vera noted that Eduardo admitted to Nigel Griffiths (*Griffiths*), a foreign nurse, that he had concealed his condition from the respondents.

The NLRC, in its resolution of December 29, 2006,¹³[13] set aside LA de Vera's decision and ordered the respondents to pay US\$60,000.00 death benefits to

12[12] *Supra* note 6.

13[13] *Supra* note 4.

Eduardo's wife, Lydia, and US\$15,000.00 death benefits to each of their three children.

The NLRC held that LA de Vera erred in concluding that Eduardo's illness was pre-existing based on (1) the result of the HIV test conducted by the National Reference Testing Center for HIV Testing, and (2) Griffiths' report. It did not consider the HIV test result as competent evidence of a pre-existing HIV condition, as it did not mention Eduardo's name, nor did it particularly state that an HIV test was conducted on Eduardo. The NLRC noted that the respondents failed to corroborate their allegation that Eduardo deliberately shopped for agencies that required a PEME without HIV testing. Similarly, the NLRC declared Griffiths' report without evidentiary value as it was unsigned.

The NLRC further ruled that Eduardo's illness was aggravated by his employment. As First Engineer, Eduardo monitored the ship's engine on a daily basis; he was responsible for its mechanical propulsion, maintenance, and operation. He also supervised welding job orders. In undertaking these tasks, he was exposed to various engine toxics and deleterious residues and substances such as metallic iron, oxides, asbestos and carbon monoxides.

The respondents moved for the reconsideration of this resolution, but the NLRC dismissed their motion in its resolution of March 12, 2007.¹⁴[14]

¹⁴[14] *Supra* note 5.

THE CA DECISION

The respondents filed a petition for *certiorari* before the CA, docketed as CA-G.R. SP No. 98719. While the respondents' petition was pending, the petitioners moved for the execution of the NLRC resolutions. Despite the respondents' opposition, the labor arbiter issued a writ of execution. To prevent the execution of the NLRC's judgment, the respondents agreed to pay the petitioners P4,737,810.00, without prejudice to the outcome of their petition for *certiorari* before the CA. The petitioners, in turn, agreed to desist from pursuing the execution proceedings they initiated.¹⁵[15]

The CA reversed and set aside the NLRC resolutions.¹⁶[16] According to the CA, death arising from a pre-existing illness is not compensable. Although Eduardo was pronounced fit to work after undergoing the PEME, the CA declared the PEME result unreliable to determine a person's real state of health because a PEME is not exploratory. Thus, the CA held that the petitioners cannot be compensated for Eduardo's death because the latter did not disclose that he was

¹⁵[15] *Id.* at 167-170.

¹⁶[16] *Id.* at 21-27.

already afflicted with HIV when he applied for the position of first engineer. Moreover, the petitioners failed to show a reasonable connection between Eduardo's work and his sickness, or that the working conditions increased the risk of contracting the disease.

The petitioners moved for the reconsideration of this decision, but the CA denied their motion in its resolution of April 29, 2008.¹⁷[17]

THE PETITION FOR REVIEW ON *CERTIORARI*

The petitioners allege that the CA erred in denying the award of death compensation benefits.

The petitioners argue that Eduardo had no pre-existing illness because he underwent a PEME and was declared fit to work. In addition, the petitioners claim that a reasonable connection existed between Eduardo's work and the illnesses that caused his death. In fact, pneumonia and pulmonary tuberculosis are listed as compensable illnesses. Even if it were otherwise, the petitioners contend it was not necessary to prove the work-relatedness of Eduardo's illnesses. Unlike the 2000 Philippine Overseas Employment Agency (*POEA*) Standard Employment Contract (*SEC*), the 1996 *POEA-SEC*, which governs Eduardo's employment contract with

¹⁷[17] *Supra* note 3.

the respondents, does not require proof of work-relatedness as condition *sine qua non* for the claim of death compensation benefits. It is enough that death occur during the term of the contract.

In their Comment,¹⁸[18] the respondents maintain that death benefits are not payable if the death occurred beyond the term of the employment contract or if the deceased fraudulently concealed his real state of health. The respondents likewise pray that the petitioners be ordered to return the amount of ₱4,737,810.00.

THE COURT'S RULING

We do not find the petition meritorious.

The Rule on Death Benefits

POEA Memorandum Circular No. 055-96 or the “Revised Standard Employment Terms and Conditions Governing the Employment of Filipino Seafarers On Board Ocean-going Vessels”¹⁹[19] provides for the minimum requirements for Filipino seafarer’s overseas employment. Section 20(A) of the

18[18] *Id.* at 87-103.

19[19] During the signing of the parties’ contract of employment, and at the time of Eduardo’s repatriation, the 2000 POEA-SEC (Department Order No. 4, s. of 2000) was not yet effective.

1996 POEA-SEC, which is based on POEA Memorandum Circular No. 055-96, clearly states:

Section 20. COMPENSATION AND BENEFITS

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 (4) children, at the exchange rate prevailing during the time of payment.

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

- a. The employer shall pay the deceased's 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 employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the master's best judgment. In all cases, the employer/master shall communicate with the manning agency to advise for disposition of seafarer's 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. [Emphases supplied.]

Stated differently, for death of a seafarer to be compensable under this provision, the death must occur *during the term of his contract of employment*; it is the only condition for compensability. The employer is liable upon proof that the

seaman died during the effectivity of his employment contract.²⁰[20]

Corollary, Section 18(B) (1) of the 1996 POEA-SEC further provides that the employment of the seafarer is terminated when he “signs-off and is disembarked for medical reasons pursuant to Section 20 (B) [4] of [the] Contract.”²¹[21]

In the present case, Eduardo was repatriated for medical reasons; he arrived in the Philippines on June 17, 1999, to undergo further evaluation and treatment after being diagnosed with *advanced mycobacterium tuberculosis*, *advanced HIV disease*, *cardiac dysrhythmias*, and *anemia*. Eduardo’s employment was therefore terminated upon his repatriation on June 17, 1999. Thus, when Eduardo died on June 9, 2001, approximately *two (2) years after his repatriation*, his employment with the respondents had long been terminated. As we held in *Prudential Shipping and Management Corporation v. Sta. Rita*:

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.**²²[22] [Emphasis supplied.]

20[20] See *Coastal Safeway Marine Services, Inc. v. Delgado*, G.R. No. 168210, June 17, 2008, 554 SCRA 590, 598.

21[21] Section 20(B) [4]. Upon sign-off of the seafarer from the vessel for medical treatment, the employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former vessel or another vessel of the employer despite earnest efforts.

22[22] G.R. No. 166580, February 8, 2007, 515 SCRA 157, 168-169.

The Collective Bargaining Agreement

The petitioners likewise cannot seek refuge from the Collective Bargaining Agreement (CBA)²³[23] executed between the respondents and the Associated Marine Officers' and Seamen's Union of the Philippines, Eduardo's sole bargaining representative. Section 1, Article XX of this CBA reads:

The Company shall pay to the covered Seafarer's next-of-kin US\$60,000.00 for death provided that such covered Seafarer **dies while on board the ship, or while travelling to or from the Ship.** x x x If the Union has paid a part of the death compensation in accordance with x x x SECTION 2 below, the Company shall pay the balance remaining x x x after deducting the amounts advanced by the Union to the Seafarer's next-of-kin.²⁴[24] [Emphases supplied.]

As earlier stated, Eduardo boarded the ship on March 11, 1999, and was repatriated on June 17, 1999. He died two years later on June 9, 2001. Clearly, Eduardo did not die on board the respondents' ship, or while travelling to or from the ship, so as to entitle him to death compensation under the CBA. *What legal basis the petitioners rely upon – after admitting that Eduardo died two years after repatriation – truly escapes us.*

23[23] Took effect on May 1, 1999.

24[24] *Rollo*, p. 85.

Work-relatedness Issues

The petitioners argue that work-relatedness of the illnesses that caused Eduardo's death is not a material issue under the 1996 POEA-SEC, as it only requires that *death occur during the term of the contract*.²⁵[25] We agree with this position, but given that Eduardo died two years after the termination of his employment contract, we see no point in belaboring this issue.

Alternatively, the petitioners argue that Eduardo's death should be compensable because his work *triggered* the illnesses or *worsened* them.²⁶[26]

Eduardo's death which occurred two years after his repatriation is covered by a death certificate that listed *pneumonia* as the immediate cause; *Pulmonary Tuberculosis, Tuberculosis Meningitis, Disseminated Candidiasis, Anemia Secondary to Chronic Disease, Wasting Syndrome, Scabies and Seborrheic Dermatitis* as antecedent causes; and *AIDS* as underlying cause. Properly understood, these findings are significant as they point us to a definite conclusion on the issue of work-relatedness or work-aggravation.

Pneumonia, the **immediate cause** of Eduardo's death, is listed under the Implementing Rules and Regulations of the Labor Code (*ECC Rules*) as an occupational disease. But for a disability or death from this cause to be compensable, all 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;**

25[25] *Id.* at 8.

26[26] *Id.* at 9-11.

- (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].
[Emphases supplied.]

Corollary, the ECC Rules specifically requires for compensability that *pneumonia* must have been contracted under the following conditions:

- (a) There must be an honest and definite history of wetting and chilling during the course of employment and also, of injury to the chest wall with or without rib fracture, or inhalation of noxious gases, fumes and other deleterious substances in the place of work.
- (b) There must be a direct connection between the offending agent or event and the worker's illness.
- (c) The signs of consolidation should appear soon (within a few hours) and the symptoms of initial chilling and fever should at least be 24 hours after the injury or exposure.
- (d) The patient must manifest any of the following symptoms within a few days of the accident: (1) severe chill and fever; (2) headache and pain, agonizing in character, in the side of the body; (3) short, dry, painful cough with blood-tinged expectoration; and (4) physical signs of consolidation, with fine rales.

Significantly, these are the very same conditions required under the POEA-SEC for pneumonia to be considered a compensable occupational disease.²⁷[27]

²⁷[27] **Section 32-A. Occupational Diseases:**

X X X X

13. Pneumonia. All of the following conditions must be met:

Our consideration of the attendant facts shows the petitioners failed to adduce evidence establishing these required conditions. On the contrary, the causes of Eduardo's death, as shown by his death certificate, indicate that pneumonia was simply the final illness that immediately brought about Eduardo's death. The long road to pneumonia started from an underlying cause – AIDS – that rendered him susceptible to the antecedent cause of tuberculosis, and to pneumonia as the immediate cause of death. This is discussed at length below in the discussion on AIDS. Suffice it to state for now that no evidence on record shows that Eduardo's working conditions on board as a First Engineer caused the pneumonia that brought on his death two years after he had disembarked from his vessel.

Pulmonary Tuberculosis²⁸[28] was listed as one of the **antecedent causes** of Eduardo's death, *i.e.*, it was a condition that led to or precipitated the immediate cause of his death, as recorded in the death certificate.²⁹[29] Related to pneumonia as the immediate cause of death, this means that Eduardo's pneumonia directly sprang from and was directly linked and traceable to pulmonary tuberculosis, that in turn traced itself to AIDS. Parenthetically, tuberculosis is listed under the ECC Rules and the POEA-SEC as an occupational disease. Eduardo, however, was not engaged in any of the occupations where tuberculosis is a listed illness. Moreover, no evidence

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- b. There must be direct connection between the offending agent or event and the seafarer's illness.
- c. The signs of consolidation should appear soon (within a few hours) and the symptoms of initial chilling and fever should at least be 24 hours after the injury or exposure.
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28[28] Among the illnesses listed in the death certificate as antecedent causes of Eduardo's death, only pulmonary tuberculosis was listed under the ECC Rules and POEA SEC as occupational.

29[29] <http://www.jrank.org/health/pages/33876/antecedent-causes-death.htm> >antecedent causes of death, last visited on May 28, 2010.

on record shows how Eduardo's *working conditions* brought on or aggravated the tuberculosis that became the antecedent cause of his death two years after repatriation.

An **underlying cause** is defined by the World Health Organization as the disease or injury that initiated the train of events leading directly to death, or the circumstances of the accident or violence that produced the fatal injury.³⁰[30] AIDS, described in Eduardo's death certificate as the underlying cause of death, is a human disease characterized by a marked decrease of helper-induced T-lymphocyte cells, resulting in a general breakdown of the body's immune system.³¹ [31] In simpler terms, it is a disease that attacks a person's immune system, leaving it so damaged that certain diseases (opportunistic infections) or cancers develop. AIDS is the final and most serious stage of HIV infection,³²[32] and it takes time for HIV to progress to AIDS.³³[33]

According to the *Merck Manual of Medical Information*, the virus that causes AIDS can only be transmitted in the following ways: (a) sexual relation with an infected person; (b) injection or infusion of contaminated blood; and (c) transfer of the virus from an infected mother to a child before or during birth.³⁴[34] HIV is not transmitted by casual contact or even by close, nonsexual contact at work, school or home. No contact of HIV transmission has been traced to the coughing or sneezing of an infected person or to a mosquito bite.³⁵[35]

30[30] Under international rules for selecting an underlying cause from the reported conditions, every death is attributed to one underlying cause based on the information reported on the death certificate. See: *Wisconsin Department of Health Services* (<http://dhs.wisconsin.gov/wish/main/Mortality/define.htm>), last visited on May 28, 2010.

31[31] Webster's Family Encyclopedia, Volume 1, p. 16.

32[32] HIV is an infection by one of two viruses that progressively destroys white blood cells called lymphocytes, causing Acquired Immune Deficiency Syndrome (AIDS) and other diseases that result from the impaired immunity.

33[33] (http://www.ashastd.org/learn_hiv_aids.cfm), last visited on May 24, 2010; see also *The Merck Manual of Medical Information*, Pocket Book, Simon and Schuster, Inc. (1997 ed.), p. 927.

34[34] *Id.* at 927-928.

35[35] *Id.* at 929.

Opportunistic infections that develop with AIDS are infections by organisms that do not cause disease in people with healthy immune systems. Both the HIV infection and the opportunistic infections and cancers produce the symptoms of AIDS.³⁶[36]

Pneumonia caused by the fungus *Pneumocystis carinii* is a common and recurring opportunistic infection in people with AIDS, and is the first opportunistic infection to develop. *Tuberculosis* is more frequent and deadlier in people who have HIV infection than in those who do not, and is difficult to treat if the strain of the tuberculosis is resistant to antibiotics. Another mycobacterium, *Mycobacterium avium complex*, is a common cause of fever, weight loss, and diarrhea in people with the advanced disease.³⁷[37]

AIDS is not listed as an occupational disease both under the POEA-SEC and the ECC Rules. Thus, the claimant bears the burden of reasonably proving the relationship between the work of the deceased and AIDS, or that the risk of contracting AIDS was increased by the working conditions of the deceased.

In the present case, we do not find Eduardo's AIDS to have been work-related. Records have shown that it was a pre-existing illness that Eduardo did not disclose during his PEME with the respondents' medical testing center.

The evidence reveals that Eduardo had undergone a previous PEME on October 29, 1997 (or two years before his deployment with the respondents) as a prerequisite for his employment with another agency – Southfield Agencies (Southfield). The PEME was conducted by the PROBE Polyclinic and Diagnostic Center (*PROBE*), Southfield's designated testing center. Dr. Laura S. Gonzales, the examining physician, found Eduardo **positive for HIV**, and declared him **unfit for sea duty**.³⁸[38] Eduardo was then advised to proceed to the Department of Health's National Reference Testing Center for HIV Testing for further examination and tests. The National Reference Testing Center for HIV Testing confirmed the findings of PROBE, and declared Eduardo to be **HIV positive**.³⁹[39]

36[36] *Id.* at 929-930.

37[37] *Id.* at 930.

38[38] *CA rollo*, p. 91.

39[39] *Id.* at 92.

Eduardo underwent another PEME, this time in relation to his application with the respondents in 1999 (or two years after PROBE's test). The PEME was conducted by the respondents' designated testing center – the Holy Angel Medical Clinic.⁴⁰[40] Fortunately or unfortunately for Eduardo, this testing center did not require an AIDS clearance test, and he did not disclose that he had been tested HIV positive when he filled up the PEME form. In fact, he answered “No” to the question, “*Has applicant suffered from, or been told he had, any of the following conditions: x x x 21) Sexually Transmitted Disease.*”⁴¹[41] Thus, through a confluence of events – a testing center that for some reason did not test a prospective seaman for AIDS, and the seaman's own failure to disclose his affliction – Eduardo was able to board the respondents' vessel in March 1999 despite his HIV positive condition.

Records show that within a short two months after deployment with the respondents' vessel, Eduardo was diagnosed to be suffering from, among others, advanced HIV. Dr. Patterson of the Touro Infirmary in New Orleans, where Eduardo was admitted in May 1999,⁴²[42] mentioned in the Physician's Discharge Summary that Eduardo's **AIDS was “under treatment”**; and that the “[p]atient had a very stormy course related to his advanced HIV disease, which was discovered here, but which the patient knew about 18 months prior to admission.”⁴³[43] Apparently, it was only at this point that the respondents came to fully know that Eduardo had AIDS.

The nature of HIV and AIDS negates the petitioners' claim that the illnesses that caused Eduardo's death were acquired during his employment on board the respondents' vessel because he passed the company's PEME. Three reasons, already touched upon in the discussions above, militate against this claim.

First, the respondents' testing center did not test for HIV, and Eduardo did not disclose his HIV positive condition. Under these circumstances, a PEME cannot lead to the conclusion that Eduardo was HIV-free when he boarded the respondents' vessel and acquired his HIV/AIDS only while on board the vessel. We have had occasion to recognize in the past that a PEME, in the way it is conducted in the maritime industry, is generally not exploratory in nature, nor is it a

40[40] *Id.* at 96.

41[41] *Ibid.*

42[42] *Id.* at 97.

43[43] *Ibid.*

totally in-depth and thorough examination of an applicant's medical condition. The PEME, usually cursorily made, determines whether one is "fit to work" at sea or "fit for sea service"; it does not reveal the real state of health of an applicant.⁴⁴[44] In the present case, the worthlessness of the respondents' PEME for AIDS determination purposes is hardly disputable.

Second, from the causes of AIDS we pointed out above, it appears – in the absence of any record of blood transfusion while on board – that Eduardo acquired his AIDS through sexual relations with an infected person and not because of his brief two-month stay on board or of his working conditions during that period. As discussed above, HIV/AIDS, while communicable, can be transmitted only under specific conditions. By a process of elimination, Eduardo could have acquired his AIDS only through sexual transmission – a claim made by the respondents, albeit through an unsigned report by a foreign nurse who was not available for examination during the arbitration and whose statement cannot therefore be appreciated as evidence.⁴⁵[45]

Third, HIV/AIDS is a disease of the immune system that does not progress to the point of attracting opportunistic infections until the immune system has substantially been weakened by the progress of the disease. It does not reach this advanced stage in two months' time as established medical literature shows. Eduardo did not succumb to the disease and the opportunistic infections it carried until after two years from the respondents' discovery of the disease, and four years after he was tested positive by PROBE.

Based on these considerations, we cannot escape the conclusion that the petition is without merit and that the CA was correct when it reversed and set aside the NLRC award of death benefits to the petitioners as heirs of Eduardo. This is a conclusion that cannot be helped nor swayed by the intent of our laws and jurisprudence to be read liberally in their application to our overseas Filipino workers. Liberal construction is not a license to disregard the evidence on record

44[44] See *NYK-FIL Ship Management, Inc. v. NLRC*, G.R. No. 161104, September 27, 2006, 503 SCRA 595, 609.

45[45] CA *rollo*, pp. 100-104.

or to misapply our laws.⁴⁶[46] That the petitioners have now secured the execution of the NLRC decision involving a very sizeable sum is unfortunate, but is a situation that is not irremediable since the parties themselves agreed that this would be a live issue subject to the final outcome of the case.

WHEREFORE, premises considered, we **DENY** the petition for lack of merit, and accordingly **AFFIRM** the challenged decision and resolution of the Court of Appeals in CA-G.R. SP No. 98719. In light of this judgment, the petitioners are hereby **ORDERED** to **RETURN** the amount of Four Million Seven Hundred Thirty-Seven Thousand Eight Hundred Ten Pesos (P4,737,810.00) to the respondents. Costs against the petitioners.

SO ORDERED.

ARTURO D. BRION

Associate Justice

⁴⁶[46] See *Klaveness Maritime Agency, Inc. v. Beneficiaries of the Late Second Officer Anthony S. Allas*, G.R. No. 168560, January 28, 2008, 542 SCRA 593, 603.

WE CONCUR:

CONCHITA CARPIO MORALES

Associate Justice

Chairperson

LUCAS P. BERSAMIN

Associate Justice

ROBERTO A. ABAD

Associate Justice

MARTIN S. VILLARAMA, 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 Court's Division.

CONCHITA CARPIO MORALES

Associate Justice

Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's 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 Court's Division.

RENATO C. CORONA

Chief Justice
