

**FIRST DIVISION****HFS PHILIPPINES, INC., G.R. No. 168716****RUBEN T. DEL ROSARIO and  
IUM SHIPMANAGEMENT AS,  
Petitioners, Present:**PUNO, *C.J., Chairperson,*  
CARPIO,**- v e r s u s -** CORONA,  
LEONARDO-DE CASTRO and  
BERSAMIN, *JJ.***RONALDO R. PILAR,  
Respondent. Promulgated:**

April 16, 2009

**X - - - - - X****D E C I S I O N****CORONA, J.:**

This petition<sup>[1]</sup> seeks to reverse and set aside the November 22, 2004 decision<sup>[2]</sup> and June 22, 2005 resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 85197.

On October 4, 2001, respondent Ronaldo R. Pilar was engaged by petitioners IUM Shipmanagement AS and its Philippine manning agent, HFS Philippines, Inc. (HFS), as a crew member of the Norwegian vessel M/V Hual Triumph under the following terms and conditions:

Duration of the contract : 9 months  
Position : Electrician  
Basic monthly salary : US \$981 per month  
Hours of work : 44 hours per week  
Overtime : US \$646 per month  
Vacation leave with pay : 8 days per month  
Point of hire : Manila<sup>[4]</sup>

Respondent boarded the vessel on October 27, 2001.<sup>[5]</sup>

In March 2002 or roughly four months after he boarded M/V Hual Triumph, respondent complained of loss of appetite, nausea, vomiting and severe nervousness. Despite being given medical treatment, his condition did not improve.

When the vessel reached Nagoya, Japan on April 3, 2002, respondent was brought to the Komatsu Hospital where he was diagnosed with depression and gastric ulcer.<sup>[6]</sup> The attending physician declared him unfit for work and recommended his hospitalization and repatriation.<sup>[7]</sup> Respondent returned to Manila on the same day.

Upon reaching Manila, respondent was met by a representative of HFS who immediately brought him to the Medical Center Manila. HFS-designated physician Dr. Nicomedes G. Cruz confirmed that respondent was suffering from major depression. Thus, he placed respondent under continuous medical treatment for several months.<sup>[8]</sup>

On September 19, 2003, respondent was declared fit to work.<sup>[9]</sup>

Meanwhile, respondent likewise sought the opinion of other physicians.

Dr. Anselmo T. Tronco of the Philippine General Hospital<sup>[10]</sup> and Dr. Raymond Jude L. Changco of the Mary Chiles Hospital<sup>[11]</sup> opined that respondent continued to suffer from major depression.

Dr. Arlito C. Veneracion of the Mary Chiles Hospital, on the other hand, evaluated the results of respondents ultrasound and endoscopy. He revealed that respondent was suffering cholecystolithiasis, mild fatty liver and chronic gastritis.<sup>[12]</sup> Thus, Dr. Veneracion declared respondent unfit to work.<sup>[13]</sup>

On November 27, 2002, respondent filed a complaint for underpayment of disability and medical benefits and for moral and exemplary damages in the National Labor Relations

Commission (NLRC).<sup>[14]</sup> Because respondent was a registered member of the Associated Marine Officers and Seamans Union of the Philippines (AMOSUP), the NLRC referred the complaint to the National Conciliation and Mediation Board (NCMB) on May 6, 2003.<sup>[15]</sup>

In his position paper, respondent claimed that, while sleeping during his rest hours on March 9, 2002, he was suddenly awakened by his officer who hit him on the head. He was so traumatized by the incident that thereafter, he lost his appetite, vomited incessantly and experienced severe nervousness. He claimed to be entitled to disability compensation under Article 12 of the Collective Bargaining Agreement (CBA) between AMOSUP and the Norwegian Shipowners Association which provides:

#### ARTICLE 12 DISABILITY COMPENSATION

**If a seafarer due to no fault of his own, suffers injury as a result of an accident while serving on board** or while traveling to or from the vessel on the companys business or due to marine peril, **and as a result his ability to work is permanently reduced, totally or partially, the Company shall pay him a disability compensation** which including the amounts stipulated by the [Philippine Overseas Employment Agencys] rules and regulation shall be maximum:

Radio officers, chief stewards,  
**electricians, electro technicians US \$90,000**

Ratings US \$70,000

The disability compensation shall be calculated on the basis of the POEAs schedule of disability or impediment for injuries at a percentage recommended by a doctor authorized by the Norwegian authorities for the medical examination of seafarers.

The company shall take out the necessary insurance to cover the benefits mentioned above. Coverage arranged with P & I Club recognized by the Norwegian authorities will meet these requirements. (emphasis supplied)

Petitioners, on the other hand, asserted that in the absence of proof his depression was caused by an accident, respondent was not entitled to disability and medical benefits under Article 12 of the CBA. Instead, he was only entitled to the 120-day sick pay provided under Article 10 of the CBA which provides:

#### ARTICLE 10 SICKNESS AND INJURY

During the period of employment and at the time of signing off, the officer shall submit to a medical examination when requested by the company or its representative, at the companys expense.

**While serving on board, a sick or injured officer is entitled to treatment at the companys expense.** The company is not responsible for conservative denial treatment. If the officer is sick or injured at the termination of the service period, he has the same entitlement for a maximum period of one hundred and twenty (120) days from the date of signing off. In accordance with Part II, Section C of the [Philippine Overseas Employment Agencys (POEA)] rules and regulations, the officer must submit to a post-employment medical examination within three (3) working days after his return to the Philippines to obtain these benefits. If he should be unable by reason of physical incapacity to do so, a written notice to the agency within the same period is deemed as compliance provided the incapacity is certified by the Master or an authorized physician.

**In the event of sickness or injury necessitating signing-off, the officer is entitled to travel to Manila at the companys expense.**

**The officer is entitled to sick pay (at the same rate as basic wage) for up to 120 days after signing off, provided the sickness or the injury is verified by written statement from an authorized physician.** The sick pay will be in addition to the vacation leave compensation mentioned in Art. 8 but not in the addition to the termination pay compensation mentioned in Art. 5 points a to c.

It is understood that an officer who is signed off by reason of sickness or injury must return to the Philippines within the usual period of travel from the date and place of disembarkation indicated in homeward bound ticket. On arrival in the Philippines, he shall report to the companys designated physician within three (3) working days from the time of arrival for post employment medical examination, otherwise, the employers liability shall be deemed terminated. In case however, of failure to report due to officers physical incapacity, a written notice to the company within three (3) working days from arrival is deemed as compliance provided the incapacity is certified by the Master or an authorized physician. (emphasis supplied)<sup>[16]</sup>

Pursuant to this provision, Section 20(B) of the Standard Employment Contract of the POEA between respondent and petitioners (employment contract) stated:

#### B. COMPENSATION AND BENEFITS FOR ILLNESS AND INJURY

The liabilities of the employer when the seafarer suffers injury or illness during the term of his contract are as follows:

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**3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or of the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one-hundred twenty (120) days.**

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same

period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits. (emphasis supplied)

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The NCMB held that the nature of respondents occupation significantly contributed to the deterioration of his psychological condition. Respondents depression was therefore a compensable sickness since it arose out of his employment. In view of the principle of social justice (that those who have less in life should have more in the law), the NCMB awarded disability compensation to him:<sup>[17]</sup>

**WHEREFORE**, judgment is hereby rendered in favor of [respondent]. [Petitioners], jointly and severally, are hereby ordered to pay disability benefits claimed by [respondent] in accordance with the [AMOSUP]-CBA in the amount of US\$90,000 and attorneys fees equivalent to 10% of the total amount awarded.

SO ORDERED.

Aggrieved, petitioners assailed the NCMB decision in the CA via petition for certiorari<sup>[18]</sup> asserting that it committed grave abuse of discretion in awarding disability compensation to respondent. The NCMB erred in applying Article 12 of the CBA since the respondents depression and gastric ulcer were not due to an accident.

In a decision dated November 22, 2004, the CA held that Article 12 of the CBA applies when a seafarer suffers an injury (1) as a consequence of an accident that took place on board the vessel or (2) while traveling to and from the vessel on company business or (3) due to a marine peril. Since respondents illnesses were not the result of any of the said circumstances, he was not entitled to disability compensation granted by the CBA. Nonetheless, because he proved that his illnesses impaired him, he is entitled to disability benefits granted by Section 32<sup>[19]</sup> of the employment contract.<sup>[20]</sup>

Unsatisfied with the decision of the CA, petitioners moved for reconsideration but it was

denied.<sup>[21]</sup>

The primordial issue in this petition is whether respondent is entitled to disability pay.

Petitioners contend that the CA erred in awarding disability pay to respondent. Section 20(B) of the employment contract requires that the seafarer should be declared unfit for work by the company physician. Respondent, in this instance, was declared fit for work by Dr. Cruz.

We deny the petition.

Just like any other contract, a CBA is the law between the contracting parties and compliance therewith in good faith is required by law.<sup>[22]</sup> Inasmuch as respondent was a registered member of the AMOSUP, the present controversy should be decided in accordance with the CBA.

It is undisputed that respondent fell ill while he was onboard M/V Hual Triumph. This fact was confirmed not only by petitioners accredited physicians but also by respondents own independent physicians.

In view thereof, respondent is clearly entitled to sick-pay. Article 10 of the CBA and Section 20(B) of the employment contract apply when a seafarer contracts an illness in the course of his employment. They provide that if, in the opinion of the employer-accredited physician, the nature of the seafarers illness, **regardless of its cause**, requires a sign-off (or repatriation to Manila), the seafarer is entitled to sick-pay equivalent to not more than 120-days worth of regular wage.

However, with regard to whether respondent is entitled to disability compensation, we rule in the negative. Article 12 of the CBA requires:

- (a) the seafarer must suffer an injury;
- (b) injury must have been the result of an accident while on board or while traveling to or from the vessel on companys business or it must have been due to marine peril and

(c) as a result of the injury, he becomes totally or partially disabled.

This provision is limited to injuries. It does not cover all kinds of illnesses such as those suffered by respondent. Moreover, neither the NCMB nor the CA found that respondents illnesses were the result of an accident or a marine peril.

Nonetheless, while respondent is not entitled to disability compensation under the CBA, Section 20(B) of the Contract provides:

**5. In case of permanent total or partial disability of the seafarer during the term of employment 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. Computations arising from any illness or disease shall be governed by the rates and rules of compensation applicable at the time the illness or disease was contracted. (emphasis supplied)

Under this provision, a seafarer may be entitled to disability compensation if (1) he is shown to have contracted an illness or suffered an injury in the course of his employment and (2) such illness or injury resulted in his total or partial disability.

In this case, the company-accredited doctor opined that respondent was fit to work but respondents own physicians declared otherwise.

We note that Section 20(B) of the employment contract states that it is the company-designated physician who determines a seafarers fitness to work or his degree of disability. Nonetheless, a claimant may dispute the company-designated physicians report by seasonably consulting another doctor. In such a case, the medical report issued by the latter shall be evaluated by the labor tribunal and the court, based on its inherent merit. [\[23\]](#)

Dr. Tronco made the following observations about respondent:

The [patient] started to feel weak, anxious, depressed, with loss of interest and feeling of hopelessness one month before consultation. These symptoms interfered with work. He was thus repatriated on the fifth month of work as a seaman. He was given anti-depressants which led to his gradual improvement.

Presently, [patient] is energetic and not anxious.

Impression: major depression

He will be maintained on Zoloft pills within the next [six to nine] months. Prognosis is good. [\[24\]](#)

However, Dr. Chango found that respondents depression persisted:

Patient is under medication but persists to be depressed. In view of this, I recommend that in the Schedule of Disability he be graded 6 (moderate mental disorder) which limits worker to ADL with some directed care. [\[25\]](#)

Dr. Veneracion, on the other hand, issued a certification to the following effect:

This is to certify that I have seen and examined Mr. Ronaldo Pilar on September 22, 2003 at Mary Chiles General Hospital. Ultrasound done at March 26, 2003 showed cholecystilithiasis and mild fatty liver. Endoscopy with gastric biopsy done April 2, 2003 revealed chronic gastritis.

Diagnosis: Cholecystilithiasis  
Mild fatty liver  
Chronic gastritis

Remarks: POEA Disability Grade 7  
Unfit to work

This certification was issued upon Mr. Rolando Pilars request for the purpose of claiming disability benefits. [\[26\]](#)

There was clearly a discrepancy between the certification of the company-designated physician and those of respondents chosen doctors. The company-designated physician expectedly downplayed his findings on the ratings. [\[27\]](#) It is for this reason that the employment contract affords the seaman the option to seek the opinion of an independent physician. [\[28\]](#)

The company-designated physician declared respondent as having suffered a major depression but was already cured and therefore fit to work. On the other hand, the independent physicians stated that respondents major depression persisted and constituted a disability. More importantly, while the former totally ignored the diagnosis of the Japanese doctor that respondent was also suffering from gastric ulcer, the latter addressed this. The independent physicians thus found that respondent was suffering from chronic gastritis and declared him

unfit for work.

The bottomline is this: the certification of the company-designated physician would defeat respondents claim while the opinion of the independent physicians would uphold such claim. In such a situation, we adopt the findings favorable to respondent.

The law looks tenderly on the laborer. Where the evidence may be reasonably interpreted in two divergent ways, one prejudicial and the other favorable to him, the balance must be tilted in his favor consistent with the principle of social justice. [\[29\]](#)

**WHEREFORE**, the petition is hereby **DENIED**. The November 22, 2004 decision and June 22, 2005 resolution of the Court of Appeals in CA-G.R. SP No. 85197 affirming the May 27, 2002 decision of the National Conciliation Mediation Board in NCMB Case No. NCMB-NCR-CRN Case No. 06-007-03 are **AFFIRMED**.

Costs against petitioners.

**SO ORDERED.**

**RENATO C. CORONA**  
Associate Justice

WE CONCUR:

**REYNATO S. PUNO**  
Chief Justice  
Chairperson

**ANTONIO T. CARPIO TERESITA J. LEONARDO-DE CASTRO**

Associate Justice Associate Justice

**LUCAS P. BERSAMIN**

Associate Justice

***C E R T I F I C A T I O N***

Pursuant to Section 13, Article VIII of the Constitution, 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 Courts Division.

**REYNATO S. PUNO**

Chief Justice

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

[2] Penned by Associate Justice Rosalinda Asuncion-Vicente and concurred in by Associate Justices Eugenio S. Labitoria (retired) and Bienvenido L. Reyes of the Third Division of the Court of Appeals. *Rollo*, pp. 12-20.

[3] *Id.*, pp. 21-22.

[4] Standard contract of employment of the Philippine Overseas Employment Agency, entered into by petitioners and respondent. *Id.*, p. 483.

[5] October 29, 2001 in some parts of the record.

[6] Declaration of illness/accident. *Rollo*, p. 524.

[7] Doctors report. *Id.*, p. 525.

[8] Diagnoses dated April 4, 2003, April 11, 2003, April 16, 2003, April 24, 2003, May 27, 2003, June 25, 2003, June 27, 2003, July 2, 2003, August 9, 2003 and August 20, 2003. *Id.*, pp. 530-542.

[9] According to respondents SSS claim form, he last visited Dr. Cruz on September 19, 2002. *Id.*, p. 543.

[10] Diagnosis dated January 15, 2003. *Id.*, p. 542.

[11] Diagnosis dated August 20, 2003. *Id.*, p. 544.

[12] Medical certificate issued by Dr. Veneracion. *Id.*, p. 552

[13] *Id.* Respondents disability was classified under POEA Grade 7. *See* POEA Standard Contract of Employment for Seafarers, Sec. 32. It provides:

Section 32. SCHEDULE OF DISABILITY OR IMPEDIMENT FOR INJURIES SUFFERED AND DISEASES INCLUDING

## OCCUPATIONAL DISEASES OR ILLNESS CONTRACTED.

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ABDOMEN

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4. Moderate residuals of disorder of the intra-abdominal organs secondary Grade 7 to trauma resulting to impairment of nutrition, moderate tenderness, nausea, vomiting, constipation or diarrhea.

[14] Docketed as NCR-OFW(M) 02-11-3032-00.

[15] Order penned by Facundo L. Leda. *Rollo*, pp. 448-450. The case was re-docketed as NCMB-NCR-CRN Case No. 06-007-03.

[16] *Id.*, pp. 376-377.

[17] Decision penned by voluntary arbitrator Hermenegildo C. Dumlao. Dated May 27, 2002. *Id.*, p. 269-276.

[18] Under Rule 65 of the Rules of Court.

[19] Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted.

[20] *Supra* note 2.

[21] *Supra* note 3.

[22] *Kimberly Clark Philippines v. Lorredo*, G.R. No. 103090, 21 September 2008, 226 SCRA 639, 643.

[23] *Maunlad Transport, Inc. and/or Nippon Merchant Marine Company, Ltd., Inc. v. Manigo*, G.R. No. 161416, 13 June 2008.

[24] *Supra* note 10.

[25] *Supra* note 11.

[26] *Supra* note 12.

[27] *Seagull Maritime Corporation v. Dee*, G.R. No. 165156, 22 April 2007, 520 SCRA 109.

[28] *Id.*

[29] In essence, this is similar to the equipoise rule in criminal law. *See* CIVIL CODE, Art. 1702. Labor legislation and contracts shall be construed in favor of the safety and decent living of the laborer.