715 Phil. 454

SECOND DIVISION

[G.R. No. 186509, July 29, 2013]

PHILMAN MARINE AGENCY, INC. (NOW DOHLE-PHILMAN MANNING AGENCY, INC.) AND/OR DOHLE (IOM) LIMITED, PETITIONERS, VS. ARMANDO S. CABANBAN, RESPONDENT.

D E C I S I O N

BRION, J.:

We resolve in this petition for review on *certiorari*[1] the challenge to the December 10, 2008 decision[2] and the February 18, 2009[3] resolution of the Court of Appeals *(CA)* in CA-G.R. SP No. 105079 setting aside the February 29, 2008 decision[4] and the June 10, 2008 resolution[5] of the National Labor Relations Commission *(NLRC)* in NLRC NCR Case No. OFW (M) 03-07-1666-00, NLRC NCR CA No. 043223-05. The reversed NLRC decision affirmed the December 29, 2004 decision[6] of the Labor Arbiter *(LA)* dismissing the complaint filed by respondent Armando S. Cabanban against Philippine Transmarine Carriers, Inc. *(PTCI)*, later on substituted by petitioner Philman Marine Agency, Inc. *(Philman)*, Carlos Salinas and petitioner DOHLE (IOM) Limited *(DOHLE)*.

The Factual Antecedents

On September 15, 2002, Armando entered into a nine-month contract of employment[7] with DOHLE, through its local agent PTCI. He was assigned to work as a 2nd mate on board the vessel "INGA-S." His basic monthly salary was US$966.00 on a 48-hour workweek, with a fixed overtime pay of US$581.00 a month and vacation leave pay of US$161.00 for five days per month.

On September 9, 2002, Armando underwent the requisite pre-employment medical examination *(PEME)* at PTCI's accredited medical clinic,[8] which found him fit for sea service.[9] During his medical examination, he declared that he had no history of high blood pressure and heart trouble, and had not previously consulted any doctor relative to any disease.[10] Armando was deployed on October 14, 2002.

On February 9, 2003, while on board the vessel "INGA-S," Armando felt dizzy and complained of chest pain. He was immediately brought to the Fujairah Port Clinic, UAE, and was admitted to the Coronary Care Unit after an initial diagnosis of "Unstable Angina."[11] On February 13, 2003, Armando was discharged from the hospital but was re-admitted four days after due to recurrent angina at rest. On February 21, 2003, Dr. Mohamed Dipti Ranjan, the Chief Medical Officer of Fujairah Port Clinic, UAE, stated in Armando's medical report that "[h]e is a known case of HT, on atenolol 50 mg od [for five years]."[12]

On February 22, 2003, Armando underwent Cardiac Catheterisation and Angiography to check for damages to his coronary arteries. The result of the angiography indicated "[e]ssentially normal coronary arteries with good left ventricular function."[13] The final diagnosis of Armando's illness, issued on February 23, 2003, stated "Microvascular Unstable Angina Class III B established on medical treatment, Type II-A Hyperlipidemia, HT, Obesity, Alcoholism." Dr. Ranjan gave the following treatment and advice:[14]

1. Medications as advised.
2. Unfit for duty for 4 weeks from today.
3. Fit for air travel.
4. Repatriation on Medical ground.
5. Risk stratification after 3 weeks by TMT/Stress Thallium 201/Technetium 99/sestambi scan.

Following Dr. Ranjan's recommendation, the petitioners repatriated Armando on medical ground. Armando arrived in the Philippines on February 23, 2003 and upon instruction, he proceeded to PTCI's company-designated physician, Dr. Natalio Alegre II, at the St. Luke's Medical Center. Dr. Alegre treated Armando and monitored his condition for three months. During the course of the treatment, Armando underwent several laboratory tests,[15] which included an ECG, CR-M, Troponin, spirometry and cardiac imaging. After the three-month close monitoring, treatment and consultation with the attending cardiologist, Dr. Marietta Crisostomo, Dr. Alegre declared Armando "fit to work" on May 12, 2003.[16]

Despite the certification of Dr. Alegre as to Armando's fitness to resume work, Armando nevertheless claimed otherwise. In a letter[17] dated June 25, 2003, Armando demanded from PTCI payment of permanent disability benefits under the Philippine Overseas Employment Agency Standard Employment Contract *(POEA-SEC).*

The petitioners did not heed Armando's demand, prompting Armando to file, on July 4, 2003, a complaint[18] against the petitioners for injury/illness compensation benefit under a disability grade of 7, according to the POEA-SEC, in the amount of US$20,900.00. In the complaint, he indicated "Coronary Artery Disease" *(CAD)* as the ground for his claim for disability benefits. Armando also sought payment of the balance of his sickness allowance equivalent to two months, unpaid/underpaid salary amounting to US$966.00, vacation leave pay, sick leave pay, moral and exemplary damages, and attorney's fees. On September 9, 2003, Armando amended his complaint[19] to include "hypertension, hyperlipidemia, obesity and alcoholism" as grounds for his disability benefits claim.

On August 11, 2003, Armando went to the UST Hospital and consulted Dr. Patrick Gerard L. Moral (Internal Medicine, Pulmonary Disease and Sleep Breathing Disorders). Dr. Moral issued a medical certificate[20] diagnosing Armando with "Coronary Heart Disease, Hypertension and Dyslipidemia," and gave him a disability grade of "7" based on the POEA disability grading schedule under the POEA-SEC.

On August 27 and 29, 2003, Armando visited the Philippine General Hospital and consulted Dr. Antonio L. Dans (Internal Medicine and Cardiology). Dr. Dans diagnosed Armando with "Gastroesophageal reflux, Hypertension and Dyslipidemia."[21] On September 4, 2003,

Armando visited Dr. Cayetano Reyes, Jr. (General Surgeon, Obstetrician and Gynecologist) at the Reyes Medical Maternity Center who diagnosed him with "essential hypertension and coronary heart disease."[22] On September 26, 2003, a fourth personal physician, Dr. Renato Matawaran (Internal Medicine) of the Holy Rosary Medical Specialty Clinic, concurred with the hypertension and coronary heart disease diagnosis and similarly gave Armando a disability grade of "7."[23] Armando subsequently presented these medical certificates before the LA.

In their position paper[24] and amended position paper,[25] the petitioners denied any liability to Armando for disability benefits under the POEA-SEC. They pointed out that Dr. Alegre has already declared him fit to work following the "normal" results of his laboratory tests.

The petitioners also disagreed with Armando's computation of his sickness allowance at 120 days. The petitioners argued that since Dr. Alegre had already declared Armando fit to work on May 12, 2003, following the provisions of the POEA-SEC, Armando's sickness allowance should be counted at only ninety-two (92) days, that is, beginning February 10, 2003 when Armando disembarked/signed off from the vessel, until May 12, 2003. As they had already paid Armando's final wages up to February 9, 2003 and his sickness allowance for the period covering February 10, 2003 until April 1, 2003, Armando is thus entitled to receive only P68,560.30, representing the balance of his sickness allowance covering the period of April 2, 2003 until May 12, 2003.

Per its Manifestation and Motion filed on September 25, 2003, Philman substituted PTCI. [26]

In a decision dated December 29, 2004,[27] the LA dismissed Armando's claims except for the balance of the latter's sickness allowance in the amount of P68,560.30. In ruling for the petitioners, the LA declared that the petitioners had fully complied with their liabilities to Armando for the work-related injury/illness suffered by the latter during the term of the contract, pursuant to the POEA-SEC. The LA noted that the petitioners' company-designated physician declared Armando fit to work after three months of monitoring and treatment, in contrast with Armando's chosen physicians who arrived at their diagnosis after only one day of consultation. The findings and declaration of Dr. Alegre, which Armando did not question, therefore binds the latter and bars his claim for disability benefits. Armando appealed the decision with the NLRC.[28]

The Ruling of the NLRC

In its February 29, 2008 decision,[29] the NLRC dismissed Armando's appeal for lack of merit. As the LA did, the NLRC upheld the certification of fitness to work issued by Dr. Alegre over the various medical certificates Armando presented. The NLRC noted that the diagnosis of the several private doctors consulted by Armando was based merely on a review of Armando's medical history and not the result of a thorough examination, treatment and monitoring similar to that undertaken by Dr. Alegre. The NLRC concluded that absent proof that the certification of fitness to work was irregularly issued or did not reflect his actual condition, Armando's claim for disability benefits under the POEA-SEC is without merit.

When the NLRC denied, in its June 10, 2008 resolution,[30] his motion for reconsideration,[31] Armando filed with the CA a petition for *certiorari*[32] under Rule 65 of the Rules of Court.

The Ruling of the CA

In its December 10, 2008 decision,[33] the CA reversed the NLRC's decision and ordered the petitioners to pay Armando the following: (1) total and permanent disability benefits in the amount of US$20,900.00 at its peso equivalent at the time of actual payment; (2) the balance of the sickness allowance in the amount of US$2,189.60 at its peso equivalent at the time of actual payment; and (3) attorney's fees.

In granting Armando's claims, the CA declared that all of the conditions laid out under Section 32-A of the POEA-SEC for an occupational disease to be compensable had been satisfied, namely: that Armando's disability resulted from CAD and essential hypertension, both of which arose during the period of the contract; that both CAD and hypertension are work-related; and that both are compensable illnesses pursuant to Section 32-A of the POEA-SEC. The CA made the following observations: (1) Armando was declared fit for sea service in his PEME result which sufficiently proves that his work-related illness occurred during the term of his contract; (2) the petitioners failed to rebut the disputable presumption laid out under Section 20-B of the POEA-SEC that though not listed as an occupational disease, Armando's CAD is presumed work-related; and (3) the findings of the company-designated physician are not conclusive, do not bind Armando, the labor tribunals and even the courts, and do not prevent Armando from seeking a second opinion.

The CA added that while Armando may have concealed his five-year history of hypertension, this alone was not sufficient to disqualify Armando from claiming disability benefits under the POEA-SEC. Moreover, the law does not require absolute or direct causal connection between the illness and the work; that the work contributed even to a small degree to the development of the disease is enough to warrant compensation.

Finally, the CA ruled that the term "disability" in claims for compensation and disability benefits should be understood as mere loss of earning capacity. The law does not require that the illness be incurable or that the employee be absolutely disabled or paralyzed for the disability to be considered total and permanent, but only that the employee was unable to perform the usual work and earn from it for more than 120 days.

The CA's denial of the petitioners' motion for reconsideration[34] in its February 18, 2009 resolution[35] prompted the present petition.

The Petition

In their present petition, the petitioners argue that the CA committed grave abuse of discretion in: (1) disregarding the factual findings of the LA and of the NLRC; (2) upholding the findings of the private doctors over those of the company-designated physician; and (3) awarding Armando attorney's fees.

Directly addressing the CA's ruling, the petitioners argue that the disability benefits under the POEA-SEC are not automatically granted. To be entitled, the seafarer must show that

the illness or injury occurred during the term of the contract and that it is work-related. To the petitioners, Armando failed to prove these requirements, as his medical records during and soon after his employment did not show that he ever suffered from CAD during the term of the contract.

The petitioners added that since Dr. Alegre has declared Armando fit to work, Armando was bound by such declaration, pursuant to Section 20-B, paragraphs 2 and 3 of the POEA-SEC. Citing the Court's declarations, the petitioners argue that the doctor most qualified to assess Armando's disability grade is the doctor who regularly monitored and treated his health, which, in this case, was the company-designated physician – Dr. Alegre.

Further, the petitioners contend that "hypertension, hyperlipidemia, obesity and alcoholism," which Armando added as grounds for his claim for disability benefits, were the direct result of his willful acts and wrong lifestyle choice for which he alone should be held responsible. As these are not work-related, they are not compensable under the POEA-SEC.

The petitioners also posit that Armando's hypertension was not even acquired during the term of the latter's contract but was a pre-existing condition which he did not disclose during his PEME. And while hypertension is listed as an occupational disease under Section 32-A, paragraph 20, Armando's willful concealment of this information in his PEME disqualifies him from claiming benefits under the POEA-SEC, pursuant to its Section 20-E. Assuming that this concealment does not disqualify Armando from claiming benefits, he still failed to present, by laboratory test results, that his hypertension impaired the functions of his body organs, as required by Section 32-A.

Finally, the petitioners take exception to the CA's award of sickness allowance counted at 120 days instead of 92 days. They argue that Dr. Alegre declared Armando fit to work on May 12, 2003; hence, the sickness allowance should be counted only until this date, or a total of 92 days counted from February 10, 2003 when he disembarked from the vessel. They also question the award of attorney's fees for Armando's failure to prove bad faith on their part.

The Case for the Respondents

Relying on the ruling of the CA, Armando contends[36] that a seafarer's entitlement to disability benefits automatically accrues by reason of death or illness. He argues that in claims for disability benefits under the POEA-SEC, the presumption of compensability and aggravation of the illness exists as long as the illness occurred during the term of the contract. The employer has the burden to rebut these presumptions which, in this case, the petitioners failed to do. For Armando, his various medical records more than adequately proved that his illness arose during the term of his contract, that such illness is work-related, and that the nature of his work and the risk factors with which he was exposed to during such employment aggravated his illness. Armando points out that the factors that contributed to his permanent disability are all related to his work and the primary and antecedent causes of his illness are listed as occupational diseases under Section 32-A of the POEA-SEC.

Further, Armando contends that since the PEME is exploratory, his clean bill of health after undergoing the PEME and prior to his employment proves that his illness occurred during, and was aggravated by, his employment. Lastly, Armando insists that the petitioners are

liable for attorney's fees for their bad faith in refusing to pay his duly proved claim for disability benefits.

The Court's Ruling

We resolve to **GRANT** the petition.

Preliminary Considerations

At the outset, we emphasize the settled rule that only questions of law are allowed in a petition for review on *certiorari.*[37] This Court's power of review in a Rule 45 petition is limited to resolving matters pertaining to perceived legal errors that the CA may have committed in issuing the assailed decision,[38] in contrast with the review for jurisdictional errors that we undertake in an original *certiorari* action.[39] In reviewing the legal correctness of the CA decision in a labor case taken under Rule 65 of the Rules of Court, we examine the CA decision in the context that it determined the presence or the absence of a grave abuse of discretion in the NLRC decision before it and not on the basis of whether the NLRC decision, on the merits of the case, was correct.[40] In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it.[41]

Viewed in this light, we do not re-examine the factual findings of the NLRC nor do we substitute our own judgment for theirs[42] as findings of fact of labor tribunals are generally conclusive on this Court. As presented by the petitioners, the issues raised before us require the re-evaluation of the evidence on record and consideration of the applicable law. The question of Armando's entitlement to disability benefits and attorney's fees, while essentially a question of law appropriate for a Rule 45 review, nevertheless hinges for their resolution on a factual issue – the question whether the CAD, hypertension, hyperlipidemia, obesity and alcoholism afflicting Armando are work-related or work-aggravated.

Based on these Rule 45 parameters, we generally cannot touch factual questions. Nevertheless, in the exercise of our discretionary appellate jurisdiction, we allow certain exceptions, all in the interest of giving substance and meaning to the justice we are sworn to uphold and give primacy to. The conflicting ruling of the LA and the NLRC, on the one hand, and of the CA, on the other,[43] in the present petition is one such exception to the above general rule. A re-examination of the record for purposes of determining the presence or absence of grave abuse of discretion committed by the CA is justified when this situation is present.

Armando is not entitled to total and permanent disability benefits

The core issue for our resolution is whether Armando is entitled to disability benefits on account of his medical condition. The results of our consideration of the records compel us to rule in the negative.

The entitlement of a seafarer on overseas employment to disability benefits is governed by the medical findings, by law and by the parties' contract.[44] By law, the governing provisions are Articles 191 to 193, Chapter VI (Disability Benefits) of the Labor Code, in

relation to Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the provisions of the POEA-SEC incorporating Department Order No. 4, series of 2000 of the Department of Labor and Employment (the POEA-SEC) govern. [45]

Since the present controversy centers on Armando's claim for total permanent disability, we find it necessary to define total and permanent disability as provided under Article 192(3)(1) of the Labor Code:

> (3) The following disabilities shall be deemed total and permanent:
>
> (1) Temporary total disability **lasting continuously for more than one hundred twenty days**, except as otherwise provided for in the Rules[.] [emphasis ours]

In relation to this Labor Code provision, we also refer to Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code:

> Sec. 2. Period of entitlement – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it **shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability** as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System. [emphases ours]

By contract, pertinent to the issue of compensability in the event of the seafarer's illness or disability is Section 20-B of the POEA-SEC. It reads:

> SECTION 20. COMPENSATION AND BENEFITS
>
> x x x x
>
> 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 x
>
> 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 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.
>
> **If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.** [emphases ours]

Section 20-B of the POEA-SEC, in plain terms, laid out two primary conditions which the seafarer must meet in order for him to claim disability benefits – **that the injury or illness is work-related** and that **it occurred during the term of the contract.** It also spelled out the procedure to be followed in assessing the seafarer's disability - whether total or partial and whether temporary or permanent - resulting from either injury or illness during the term of the contract, in addition to specifying the employer's liabilities on account of such injury or illness.

When read together with Articles 191 to 193, Chapter VI (Disability Benefits) of the Labor Code and Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code, and following our various pronouncements, Section 20-B of the POEA-SEC evidently shows that it is the company-designated physician who primarily assesses the degree of the seafarer's disability. Upon the seafarer's repatriation for medical treatment, and during the course of such treatment, the seafarer is under total temporary disability and receives medical allowance until the company-designated physician declares his fitness to work resumption or determines the degree of the seafarer's permanent disability - either total or partial. The company-designated physician should, however, make the declaration or determination within 120 days, otherwise, the law considers the seafarer's disability as total and permanent and the latter shall be entitled to disability benefits. Should the seafarer still require medical treatment for more than 120 days, the period granted to the company-designated physician to make the declaration of the fitness to work or determination of the permanent disability may be extended, but not to exceed 240 days. At anytime during this latter period, the company-designated physician may make the declaration or determination: either the seafarer will no longer be entitled to any sickness allowance as he is already declared fit to work, or he shall be entitled to receive disability benefits depending on the degree of his permanent disability.

The seafarer is not, of course, irretrievably bound by the findings of the company-designated physician as the above provisions allow him to seek a second opinion and consult a doctor of his choice. In case of disagreement between the findings of the company-designated physician and the seafarer's appointed physician, **the parties shall jointly agree to refer the matter to a third doctor whose findings shall be final and binding on both**.

In the present petition, the petitioners' designated physician – Dr. Alegre – declared Armando fit for sea service on May 12, 2003 or 92 days from the time he disembarked or signed off from the vessel on February 10, 2003. As defined under Article 192(c)(1) of the Labor Code, total and permanent disability means total temporary disability lasting for more than 120 days (unless the seafarer is still under treatment up to a maximum period of 240 days as the Court held in *Vergara v. Hammonia Maritime Services, Inc.*).[46] While Armando was initially under temporary total disability, Dr. Alegre declared him fit to work well within the 120-day mark. Viewed in this light, we find the LA and the NLRC legally correct when they refused to recognize any disability on Armando's part as the petitioners' designated physician had already declared his fitness to resume work. Consequently, absent any disability after his temporary disability was dealt with, he is therefore not entitled to compensation benefits under Section 20 of the POEA-SEC.

Armando, acting well within his rights, disagreed with the assessment of the company-designated physician and sought the opinion of four private physicians who arrived at a contrary finding. We note, however, that ***he did so only after he had already filed his complaint with the LA.*** Thus, Armando, in fact, had ***no ground for a disability claim at the time he filed his complaint***, as he did not have any sufficient evidentiary basis to support his claim.

More than this, the disagreement between the findings of the company-designated physician and Armando's chosen physicians was never referred to a third doctor chosen by both the petitioners and Armando, following the procedure outlined in Section 20-B, paragraph 3 of the POEA-SEC. Had this been done, Armando's medical condition could have been easily clarified and finally determined.

Considering the absence of findings coming from a third doctor, we sustain the findings of the NLRC and hold that the certification of the company-designated physician should prevail. We do so for the following reasons: *first*, the records show that the medical certifications issued by Armando's chosen physician were not supported by such laboratory tests and/or procedures that would sufficiently controvert the "normal" results of those administered to Armando at the St. Luke's Medical Center. And *second*, majority of these medical certificates were issued after Armando consulted these private physicians only once.

In contrast, the medical certificate of the petitioners' designated physician was issued after three months of closely monitoring Armando's medical condition and progress, and after careful analysis of the results of the diagnostic tests and procedures administered to Armando while in consultation with Dr. Crisostomo, a cardiologist. The extensive medical attention that Dr. Alegre gave to Armando enabled him to acquire a more accurate diagnosis of Armando's medical condition and fitness for work resumption compared to Armando's chosen physicians who were not privy to his case from the beginning.

In several cases, we held that **the doctor who have had a personal knowledge of the actual medical condition, having closely, meticulously and regularly monitored and actually treated the seafarer's illness, is more qualified to assess the seafarer's disability**.[47] In *Coastal Safeway Marine Services, Inc. v. Esguerra*,[48] the Court significantly brushed aside the probative weight of the medical certifications of the private physicians, which were based merely on vague diagnosis and general impressions. Similarly in *Ruben D. Andrada v. Agemar Manning Agency, Inc., et al.*,[49] the Court

accorded greater weight to the assessments of the company-designated physician and the consulting medical specialist which resulted from an extensive examination, monitoring and treatment of the seafarer's condition, in contrast with the recommendation of the private physician which was "based only on a single medical report x x x [outlining] the alleged findings and medical history x x x obtained after x x x [one examination]."[50]

Thus, in the absence of adequate diagnostic tests and procedures and reasonable findings to support the assessments of the four private physicians, their certifications on Armando's alleged disability simply cannot be taken at face value, particularly in light of the overwhelming evidence supporting the findings of Dr. Alegre. The rule is still that whoever claims entitlement to disability benefits must prove such entitlement by substantial evidence.[51] The burden of proof rested on Armando to establish, by substantial evidence, the causal link between his work as a 2nd mate and his alleged disability to serve as basis for the grant of relief.[52] Unfortunately, he failed to discharge this burden.

Consequently, the CA erroneously imputed grave abuse of discretion on the part of the NLRC in giving greater evidentiary weight to the medical certificate issued by Dr. Alegre over those issued by Armando's physicians.

In this light, we find it unnecessary to discuss whether Armando's alleged CAD, hypertension, hyperlipidemia, obesity and alcoholism were work-related and arose during the term of his contract so as to entitle him to disability benefits.

Even if we were to address the matter, our consideration of the records will lead us to the same conclusion that Armando is not entitled to disability benefits. Primarily, other than his bare assertions, Armando did not specifically describe in detail the nature of his work, the working conditions, the risks attendant to the nature of his work with which he was allegedly exposed to, as well as how and to what degree the nature of his work caused or contributed to his alleged medical conditions. To recall, all of the diagnostic tests and procedures administered on Armando yielded "normal" results for which the company-designated physician declared him fit to work.

We arrive at this conclusion based on the following reasons: first, while CAD, which is subsumed under cardio-vascular disease,[53] and hypertension are listed as occupational diseases under Section 32-A, paragraphs 11 and 20 of the POEA-SEC, certain specified conditions[54] must first be satisfied for these diseases and the resulting disability to be considered compensable. Contrary to the CA's conclusion, we find that Armando failed to show, by satisfactory evidence, that these specified conditions have been met. Moreover, both the findings at the Fujairah Port Clinic while Armando was confined following the incident at the vessel, and at the St. Luke's Medical Center while he was undergoing treatment, did not reveal that he ever suffered from CAD.

Second, although Dr. Ranjan of the Fujairah Port Clinic diagnosed Armando with hypertension, Armando did not reveal in his PEME that he had been suffering from this condition and had been taking anti-hypertensive medications for five years. As the petitioners correctly argued, Armando's concealment of this vital information in his PEME disqualifies him from claiming disability benefits pursuant to Section 20-E of the POEA-SEC. It reads:

SECTION 20. COMPENSATION AND BENEFITS

x x x x

E. **A seafarer who knowingly conceals and does not disclose past medical condition, disability and history in the pre-employment medical examination constitutes fraudulent misrepresentation and shall disqualify him from any compensation and benefits**. This may also be a valid ground for termination of employment and imposition of the appropriate administrative and legal sanctions. [emphasis ours]

We need not belabor this point as a plain reading of the above provision shows that the seafarer's concealment of a pre-existing medical condition disqualifies him from claiming disability benefits. We note that Dr. Ranjan of the Fujairah Port Clinic stated in his report that Armando was a "known case of HT, on atenolol 50 mg OD [for five years]." ***The import of this statement cannot be disregarded as it directly points to Armando's willful concealment; it also shows that Armando did not acquire hypertension during his employment and is therefore not work-related.***

Contrary to Armando's contention, the PEME is not sufficiently exhaustive so as to excuse his non-disclosure of his pre-existing hypertension. The PEME is not exploratory[55] and does not allow the employer to discover any and all pre-existing medical condition with which the seafarer is suffering and for which he may be presently taking medication. The PEME is nothing more than a summary examination of the seafarer's physiological condition and is just enough for the employer to determine his fitness for the nature of the work for which he is to be employed.[56]

In *Escarcha v. Leonis Navigation Co., Inc.*,[57] we brushed aside the seafarer's claim that he acquired his illness during his employment simply because he passed the PEME. There, we held that "a PEME x x x is generally not exploratory in nature, nor is it a totally in-depth and thorough examination of an applicant's medical condition. x x x [I]t does not reveal the real state of health of an applicant"[58] In this case, considering that the PEME is not exploratory, its failure to reveal or uncover Armando's hypertension cannot therefore shield him from the consequences of his willful concealment of this information and preclude the petitioners from denying his claim on the ground of concealment.

Finally, if indeed Armando had been suffering from obesity, hyperlipidemia and alcoholism as found by Dr. Ranjan's final diagnosis, he was suffering from infirmities that are not listed as occupational diseases under Section 32-A of the POEA-SEC and for which disability may be awarded. While we are aware of the provisions of Section 20-B, paragraph 4 which presumes any other illness not included under Section 32-A as work-related, still Armando has to prove that his illnesses are work-related and that they occurred during the term of the employment.[59] He cannot simply argue that the petitioners bear the burden of rebutting the presumption.

More than all these, plain logic dictates that mere work in a ship, in Armando's case as 2nd mate, does not necessarily lead to the imputed medical conditions. Obesity is "excess body weight, defined as a body mass index (BMI) of = 30 kg/m2,"[60] ultimately resulting from a

long-standing imbalance between energy intake and energy expenditure.[61] On the other hand, hyperlipidemia or dyslipidemia is the "elevation of plasma cholesterol, triglycerides (TGs), or both, or a low high-density lipoprotein level that contributes to the development of atherosclerosis."[62] The causes may be primary (genetic) or secondary, the most important of which is a sedentary lifestyle with excessive dietary intake of saturated fat, cholesterol, and trans fats.[63] Alcoholism, also known as alcohol dependence, refers to frequent consumption of large amounts of alcohol.[64]

These definitions of the imputed medical conditions plainly do not indicate work-relatedness; by their nature, they are more the result of poor lifestyle choices and health habits for which disability benefits are improper. Under Section 20-D of the POEA-SEC, no compensation and benefits are due in respect of any disability resulting from the seafarer's willful act.[65]

Armando is entitled to sickness allowance only until the company-designated physician declared him fit to work

The petitioners question the CA's computation of the balance of Armando's sickness allowance at 120 days. We find that the CA seriously erred in arriving at this computation.

To recall, the company-designated physician declared Armando fit to work on May 12, 2003. Armando disembarked or signed/off from the vessel on February 10, 2003. Thus, following our discussion above and pursuant to Section 20-B, paragraph 3 of the POEA-SEC, Armando's sickness allowance should be counted only at 92 days, that is from February 10, 2003 when he disembarked form the vessel, until May 12, 2003 when Dr. Alegre declared him fit to work.

In sum, we hold that the CA seriously erred in finding that the NLRC committed grave abuse of discretion in denying Armando's claim for disability benefits.

As a final note, while the Court adheres to the principle of liberality in favor of the seafarer in construing the POEA-SEC, it cannot allow claims for compensation based on surmises.[66] Liberal construction is not a license to disregard the evidence on record or to misapply our laws.[67]

WHEREFORE, premises considered, we hereby **GRANT** the petition and accordingly **REVERSE and SET ASIDE** the decision dated December 10, 2008 and the resolution dated February 18, 2009 of the Court of Appeals in CA-G.R. SP No. 105079, and **REINSTATE** the decision dated February 29, 2008 of the NLRC affirming the December 29, 2004 decision of Labor Arbiter Fedriel S. Panganiban.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and *Perlas-Bernabe, JJ.*, concur.

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[1] Under Rule 45 of the 1997 Rules of Civil Procedure; rollo, pp. 44-92.

[2] Penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justices Mario L. Guariña III and Sesinando E. Villon; id. at 99-126.

[3] Id. at 162-163.

[4] Penned by Presiding Commissioner Gerardo C. Nograles; id. at 164-170.

[5] Id. at 172-173.

[6] Penned by Labor Arbiter Fedriel S. Panganiban.

[7] *Rollo*, p. 200.

[8] Id. at 235-237 and 242-244.

[9] Angelus Medical Clinic, Inc.; id. at 238.

[10] Id. at 239-241.

[11] Medical Report; id. at 202.

[12] Id. at 207.

[13] Angiography Report of Dr. Rajesh Raipancholia; id. at 250.

[14] Id. at 254.

[15] Id. at 210-213.

[16] Affidavit of Dr. Alegre executed on August 29, 2003; id. at 208-209.

[17] Id. at 260.

[18] Id. at 261-262. Amended Complaint; id. at 263.

[19] Id. at 263 and 328.

[20] Id. at 258.

[21] Id. at 259.

[22] Id. at 323-324.

[23] Id. at 325-326.

[24] Id. at 175-196.

[25] Id. at 330-360.

[26] Id. at 332.

[27] Stated as December 24, 2004 in the NLRC's February 29, 2008 decision; id. at 164.

[28] Memorandum of Appeal dated January 28, 2005; id. at 443-468.

[29] Supra note 4.

[30] Supra note 5.

[31] Motion for Reconsideration with Motion to Admit Medical Certificate dated April 2, 2008; *rollo*, pp. 493-520.

[32] Dated September 1, 2008; id. at 540-574.

[33] Supra note 2.

[34] Dated December 19, 2008; rollo, pp. 127-158.

[35] Supra note 3.

[36] *Rollo*, pp. 588-619.

[37] *Antiquina v. Magsaysay Maritime Corporation*, G.R. No. 168922, April 13, 2011, 648 SCRA 659, 669; and *Loadstar International Shipping, Inc. v. The Heirs of the late Enrique C. Calawigan*, G.R. No. 187337, December 5, 2012.

[38] See *Ruben D. Andrada v. Agemar Manning Agency, Inc., et al.,* G.R. No. 194758, October 24, 2012; and *Montoya v. Transmed Manila Corporation,* G.R. No. 183329, August 27, 2009, 597 SCRA 334, 342.

[39] *Montoya v. Transmed Manila Corporation*, supra, at 342-343.

[40] Ibid. *Career Philippines Shipmanagement, Inc., et al. v. Salvador T. Serna*, G.R. No. 172086, December 3, 2012.

[41] *Career Philippines Shipmanagement, Inc., et al. v. Salvador T. Serna, supra, citing Montoya v. Transmed Manila Corporation*, supra, at 342-343.

[42] *Career Philippines Shipmanagement, Inc., et al. v. Salvador T. Serna,* supra.

[43] *Antiquina v. Magsaysay Maritime Corporation,* supra note 37, at 669; and *Loadstar International Shipping, Inc. v. The Heirs of the late Enrique C. Calawigan*, supra note 37.

[44] *C.F. Sharp Crew Management, Inc. v. Taok*, G.R. No. 193679, July 18, 2012, 677 SCRA 296, 309; *Jebsens Maritime, Inc. v. Undag,* G.R. No. 191491, December 14, 2011, 662 SCRA 670, 676; and *Vergara v. Hammonia Maritime Services, Inc.*, G.R. No. 172933, October 6, 2008, 567 SCRA 610, 623.

[45] *Vergara v. Hammonia Maritime Services, Inc.,* supra, at 623.

[46] Supra, at 628.

[47] *Vergara v. Hammonia Maritime Services, Inc*., supra, at 630.

[48] G.R. No. 185352, August 10, 2011, 655 SCRA 300.

[49] Supra note 38.

[50] Ibid.

[51] Ibid. *Wallem Maritime Services, Inc. v. Tanawan,* G.R. No. 160444, August 29, 2012, 679 SCRA 255, 269.

[52] See *Quizora v. Denholm Crew Management (Philippines), Inc*., G.R. No. 185412, November 16, 2011, 660 SCRA 309, 319-320; *Francisco v. Bahia Shipping Services, Inc.,* G.R. No. 190545, November 22, 2010, 635 SCRA 660, 666; *Gabunas, Sr. v. Scanmar Maritime Services, Inc.,* G.R. No. 188637, December 15, 2010, 638 SCRA 770, 780; and *Wallem Maritime Services, Inc. v. Tanawan,* supra, at 269.

[53] http://www.who.int/topics/cardiovascular_diseases/en/ (visited on May 14, 2013). See also http://www.bhf.org.uk/heart-health/conditions/cardiovascular-disease.aspx (visited on May 14, 2013).

[54] 11. Cardio-Vascular Diseases. Any of [the] following conditions must be met:

> (a) If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by the unusual strain by reasons of the nature of his work.
>
> (b) The strain of work that brings about an acute attack must be sufficient severity and must be followed within 24 hours by the clinical signs of a cardiac insult to constitute casual relationship.
>
> (c) If a person who was apparently a symptomatic before being subjected to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a casual relationship.

> 20. Essential Hypertension.
>
> Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs like kidneys, heart, eyes and brain, resulting in permanent disability; Provided, that the following documents substantiate it: (a) chest x-ray report, (b) ECG report (c) blood chemistry report, (d) funduscopy report, and (e) C-T scan.

[55] *Francisco v. Bahia Shipping Services, Inc.,* supra note 52, at 666; and *Quizora v. Denholm Crew Management (Philippines), Inc.*, supra note 52, at 321-322.

[56] See *Francisco v. Bahia Shipping Services, Inc.,* supra, at 666.

[57] G.R. No. 182740, July 5, 2010, 623 SCRA 423.

[58] Id. at 442; underscores ours. See also *Francisco v. Bahia Shipping Services, Inc.*, supra note 52, at 666.

[59] *Quizora v. Denholm Crew Management (Philippines), Inc.,* supra note 52, at 319.

[60] http://www.merckmanuals.com/professional/nutritional_disorders/obesity_and_the_metabolic_syndrome/obesity.html (visited on May 14, 2013). See also http://www.who.int/mediacentre/factsheets/fs311/en/ and Merriam-Webster's Medical Dictionary, 2006 edition, p. 511, which defines obesity as a condition that is characterized by excessive accumulation and storage of fat in the body and that in an adult is typically indicated by a body mass index of 30 or greater.

[61] http://www.merckmanuals.com/professional/nutritional_disorders/obesity_and_the_metabolic_syndrome/obesity.html (visited on May 14, 2013).

[62] http://www.merckmanuals.com/professional/endocrine_and_metabolic_disorders/lipid_disorders/dyslipidemia.html?qt=hyperlipidemia&alt=sh (visited on May 14, 2013). See also http://www.healthcentral.com/encyclopedia/408/366.html and Merriam-Webster's Medical Dictionary, 2006 edition, p. 333, which defines hyperlipidemia as the presence of excess fat or lipids in the blood.

[63] http://www.merckmanuals.com/professional/endocrine_and_metabolic_disorders/lipid_disorders/dyslipidemia.html?qt=hyperlipidemia&alt=sh (visited on May 14, 2013).

[64] http://www.merckmanuals.com/professional/special_subjects/drug_use_and_dependence/alcohol.html (visited on May 14, 2013). See also http://www.mayoclinic.com/health/alcoholism/DS00340 and Merriam-Webster's Medical Dictionary, 2006 edition, p. 19.

[65] The entire Section 20-D reads:

> "Section 20. COMPENSATION AND BENEFITS
>
> x x x x
>
> D. No compensation and benefits shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act or intentional breach of duties, provided however, the employer can prove that such injury, incapacity, disability or death is directly attributable to the seafarer." [emphasis ours]

[66] *Francisco v. Bahia Shipping Services, Inc.,* supra note 52, at 667. See also *Coastal Safeway Marine Services, Inc. v. Esguerra,* supra note 48, at 311; and *Ruben D. Andrada v. Agemar Manning Agency, Inc., et al.,* supra note 38.

[67] *Escarcha v. Leonis Navigation Co., Inc.,* supra note 57, at 443.
