728 PHIL. 297

SECOND DIVISION

[G.R. No. 193047, March 03, 2014]

FIL-PRIDE SHIPPING COMPANY, INC., CAPTAIN NICOLAS T. DOLLOLASA AND OCEAN EAGLE SHIPMANAGEMENT COMPANY, PTE. LTD., PETITIONERS, VS. EDGAR A. BALASTA, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

The company-designated physician must arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the period of 120 or 240 days, [1] pursuant to Article 192 (c)(1) of the Labor Code and Rule X, Section 2 of the Amended Rules on Employees Compensation (AREC). If he fails to do so and the seafarer's medical condition remains unresolved, the latter shall be deemed totally and permanently disabled. On the other hand, an employee's disability becomes permanent and total even before the lapse of the statutory 240-day treatment period, when it becomes evident that the employee's disability continues and he is unable to engage in gainful employment during such period because, for instance, he underwent surgery and it evidently appears that he could not recover therefrom within the statutory period.

This Petition for Review on *Certiorari*[2] assails the April 20, 2010 Decision[3] of the Court of Appeals (CA) in CA-G.R. SP No. 107330 and its July 21, 2010 Resolution[4] denying reconsideration thereof.

Factual Antecedents

Respondent Edgar A. Balasta was hired by petitioner Fil-Pride Shipping Company, Inc. (Fil-Pride) for its foreign principal, petitioner Ocean Eagle Ship Management Company, PTE. Ltd. (Ocean Eagle). Respondent was assigned as Able Seaman onboard M/V Eagle Pioneer. His Employment Contract[5] states the following terms and conditions:

Duration of Contract	:	TWELVE MONTHS
Position	:	ABLE SEAMAN
Basic Monthly Salary	:	US$390.00
Hours of Work	:	48 HRS/WEEK
Overtime	:	FIXED US$156.00 (CONTAINER ALLOW. US$39.00)
Vacation leave with pay	:	US$52.00
Point of hire	:	MANILA/PHILS

Respondent was declared fit to work after undergoing the mandatory Pre-Employment Medical Examination (PEME). He commenced his duties as Able Seaman aboard M/V Eagle Pioneer on February 23, 2005. Among respondent's duties as Able Seaman are the following:

a. Watch standers and may be required to supervise day work of junior rating;
b. Stands watch at bow or on wing of bridge to look for obstructions in path of vessel;
c. Measures depth of water in shallow or unfamiliar waters, using lead line, and telephones or shouts information to bridge;
d. Steers ship by automatic/remote control or manual control and/or uses emergency steering apparatus to steer vessel as directed by navigating officer, chief mate or the ship captain;
e. Breaks out rigs, overhauls and stows cargo handling gears, stationary rigging, and running gears;
f. Overhauls lifeboats, winch and falls;
g. Paints and chips rust on deck and superstructure of ship;
h. May be concerned only with one phase of duties such as:

    1. Maintenance of ships' gears and decks or watch duties;
    2. May be known as skilled deckhand on various repairs and maintenance works on deck;
    3. Performs other deck works as required by superior officers.[6]

Sometime in August and September 2005, while aboard M/V Eagle Pioneer, respondent experienced chest pains, fatigue, and shortness of breath. He was examined by a physician in Gangyou Hospital in Tianjin, China, and was diagnosed as having myocardial ischemia and coronary heart disease. He was declared unfit for duty and was recommended for repatriation.[7]

Respondent was thus repatriated on September 18, 2005 and was immediately referred to the company-designated physician, Dr. Nicomedes G. Cruz (Dr. Cruz). He was subjected to laboratory, X-ray, 2D echo, and electrocardiogram tests, as well as 24-hour Holter monitoring. In Dr. Cruz's September 18, 2005 medical report,[8] respondent was diagnosed with hypertension and myocardial ischemia.

Respondent was further examined by Dr. Cruz on September 21, 23 and 30, 2005; October 6, 2005; February 2, 13 and 17, 2006; March 6 and 20, 2006; and on April 19, 2006.[9] From the February 2, 2006 medical report onward, it may be seen that respondent was diagnosed with severe 3-vessel coronary artery disease, and was scheduled for coronary artery bypass surgery on February 24, 2006.

On his own initiative, respondent underwent coronary angiogram at the St. Luke's Medical Center (St. Luke's) on October 14, 2005. In a medical report[10] of even date

signed by St. Luke's Cardiac Catheterization Laboratory Interventional Cardiologist Paterno F. Dizon, Jr., respondent was diagnosed with coronary artery atherosclerosis and severe three-vessel coronary artery disease.

On February 16, 2006, respondent consulted and was examined by an independent physician, Dr. Efren R. Vicaldo (Dr. Vicaldo), who issued a medical certificate[11] containing the following diagnosis:

February 16, 2006

TO WHOM IT MAY CONCERN:

This is to certify that, Edgar A. Balasta, 48 years of age, of Imus, Cavite was examined and treated as out[-]patient/confined in this hospital on/from February 16, 2006 with the following findings and/or diagnosis/diagnoses:

Hypertensive cardiovascular disease
Coronary artery disease, 3[-]vessel involvement
Stable angina pectoris
Impediment Grade 1 (120%)

(signed)
EFREN R. VICALDO, M.D.

JUSTIFICATION OF IMPEDIMENT GRADE 1 (120%)
FOR SEAMAN EDGAR A. BALASTA

- This patient/seaman presented with a history of chest pain, easy fatigue and shortness of breath noted [in] August 2005 after some strenuous activity while working on board ship. He was seen in consult in Mainland China where he underwent chest Xray and ECG. He was diagnosed as [sic] coronary artery disease.
- He was repatriated on September 18, 2005 and was admitted for 1 week at Manila Medical Center. He underwent laboratory exams which included Chest Xray, ECG, 2D echo and 24 hour Holter monitoring. He consequently underwent coronary angiography at St. Luke's Medical Center on October 14, 2005 which revealed severe 3 vessel disease involving the proximal LAD, first diagonal and proximal and distal LCx.
- When seen at the clinic, his blood pressure was elevated at 140/90 mmHg; the rest of the PE findings were unremarkable.
- He is now unfit to resume work as seaman in any capacity.
- His illness is considered work aggravated/related.
- He requires maintenance medication to maintain normal blood pressure and low cholesterol to prevent worsening of his coronary

artery disease and other cardiovascular complications such as stroke and renal insufficiency.

- He requires immediate coronary artery bypass graft surgery to alleviated (sic) his symptom of angina and prevent the occurrence of possible acute myocardial infarction.
- He has to modify his lifestyle to include low salt, low fat diet, regular exercise and nicotine abstinence.
- He is not expected to land a gainful employment given his medical background.

Thank you.

(signed)
Efren R. Vicaldo, M.D.[12]

Respondent filed a claim for permanent disability benefits with petitioners, but the latter denied the same.

On February 10, 2006, respondent filed against the petitioners a Complaint[13] for the recovery of disability benefits, illness allowance, reimbursement of medical expenses, damages and attorney's fees.

It appears from the record that on February 24, 2006, respondent underwent coronary artery bypass graft surgery. He then continued his treatment with Dr. Cruz, who for his part continued to diagnose respondent with severe coronary artery disease.

In his Position Paper[14] and Reply,[15] respondent stated and argued that in the performance of his duties as Able Seaman, he inhaled, was exposed to, and came into direct contact with various injurious and harmful chemicals, dust, fumes/ emissions, and other irritant agents; that he performed strenuous tasks such as lifting, pulling, pushing and/or moving equipment and materials on board the ship; that he was constantly exposed to varying temperatures of extreme hot and cold as the ship crossed ocean boundaries; that he was exposed as well to harsh weather conditions; that in most instances, he was required to perform overtime work; that the work of an Able Seaman is both physically and mentally stressful; and that as a result, he contracted his illness which required him to undergo bypass surgery. He added that despite being examined by the company-designated physician, he continued to suffer episodes of severe chest pain, difficulty in breathing and other discomforts related to his illness; that his health has not improved, and was instead deteriorating, which thus led him to consult an independent physician (Dr. Vicaldo); that Dr. Vicaldo declared him unfit to work as seaman in any capacity and that his illness was work-related; that despite the lapse of more than six months, the company-designated physician has failed to make a finding regarding his condition, which thus entitles him to permanent total disability benefits; that his just claim for disability benefits was denied by petitioners, which forced him to file the labor complaint; and that he should thus be paid US$60,000.00 disability benefits with interest, 120 days illness allowance based on

his salary of US$390.00 or the amount of US$1,560.00 with interest, P500,000.00 damages, and attorney's fees of 10% of the recoverable amount.

Petitioners, on the other hand, stated and argued in their Position Paper[16] and Reply[17] that respondent filed a labor complaint even before the company-designated physician, Dr. Cruz, could complete his examination and treatment of respondent's condition, which thus prompted them to deny his claim for disability benefits; that the independent physician Dr. Vicaldo examined respondent only once on February 16, 2006, and thus could not have arrived at a competent diagnosis of respondent's condition; that in the absence of a competent diagnosis and substantial evidence, respondent's claim for benefits cannot stand; that respondent's illness is not work-related, and that his lifestyle caused, or was a contributing factor to, his illness; that contrary to respondent's claim, the latter has been paid his illness allowance in full; that respondent's medical expenses are being shouldered by them; and that respondent is not entitled to damages and attorney's fees as a result of prematurely filing the labor case. Petitioners thus prayed that the labor case be dismissed.

Ruling of the Labor Arbiter

On April 30, 2007, a Decision[18] was rendered by the Labor Arbiter which decreed as follows:

> WHEREFORE, judgment is hereby rendered ordering respondents to pay, jointly and severally, the complainant the following amount[s]:
>
> (1) US$60,000.00 or its peso equivalent at the time of payment as disability benefit; and (2) US$6,000.00 or its peso equivalent at the time of payment as attorney's fees.
>
> All other claims are Dismissed for lack of merit.
>
> SO ORDERED.[19]

The Labor Arbiter held essentially that respondent contracted his illness while serving out his employment contract with petitioners; that his illness was work-related/aggravated; that while respondent was under the care of Dr. Cruz from September 18, 2005 until April 19, 2006, the latter could have come up with a declaration of fitness or disability, yet he did not; that respondent's illness rendered him unfit for duty and required bypass surgery to treat the same; and that respondent's condition constituted permanent total disability as the same is equivalent to Impediment Grade 1 (120%) as assessed by Dr. Vicaldo, which thus entitles respondent to the maximum disability compensation of US$60,000.00. For lack of basis, however, respondent's claim for damages and reimbursement of medical expenses was denied.

Ruling of the National Labor Relations Commission

Petitioners appealed to the National Labor Relations Commission (NLRC).

On September 22, 2008, the NLRC rendered its Decision[20] granting petitioners' appeal and reversing the Labor Arbiter's April 30, 2007 Decision, thus:

> WHEREFORE, the appeal is GRANTED. The Labor Arbiter's Decision dated April 30, 2007 is hereby SET ASIDE.
>
> SO ORDERED.[21]

Respondent moved for reconsideration, but in a November 27, 2008 Resolution,[22] the motion was denied.

In reversing the Labor Arbiter, the NLRC declared that respondent's illness – atherosclerosis/coronary artery disease – was not work-connected. Thus, it held:

> Medical studies show that atherosclerosis is a disease affecting arterial blood vessels. It is commonly referred to as a "hardening" or "furring" of the arteries. It is caused by the formation of multiple plaques within the arteries. It develops from low-density lipoprotein cholesterol (LDL), colloquially called "bad cholesterol". It typically begins in early adolescence and is usually found in most major arteries, yet is asymptomatic and not detected by most diagnostic methods during life. Some risk factors for atherosclerosis are: advanced age, having diabetes or impaired glucose tolerance, dysliporproteinemia or unhealthy patterns of serum proteins carrying fats and cholesterol, male sex, tobacco smoking, having high blood pressure, being obese, a sedentary lifestyle, having close relatives who have had some complication[s] of atherosclerosis, elevated serum level of triglycerides, elevated serum insulin levels, stress or symptoms of clinical depression and hyperthyroidism x x x.[23]

Ruling of the Court of Appeals

In a Petition for *Certiorari* filed with the CA, respondent sought a reversal of the NLRC Decision, arguing that the latter committed grave abuse of discretion and gross error in declaring that his illness was not work-related and in subsequently denying his claims.

On April 20, 2010, the CA issued the assailed Decision containing the following decretal portion:

> WHEREFORE, the instant petition is GRANTED. The assailed Decision dated September 22, 2008 and Resolution dated November 27, 2008 of public respondent National Labor Relations Commission ("NLRC"), Third Division, in NLRC LAC NO. OFW (M) 08-000086-07, are REVERSED and SET ASIDE for

having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The decision dated April 30, 2007 of Labor Arbiter Donato G. Quinto, Jr. in NLRC-NCR-OFW 06-02-00543-00 is hereby REINSTATED.

SO ORDERED.[24]

The CA held that respondent suffered permanent disability as a result of Dr. Cruz's failure to make a definite assessment of his condition within the statutory 120-day period prescribed under the labor laws,[25] or from September 18, 2005 – date of repatriation – up to April 19, 2006, or date of last medical intervention, or a total of 213 days. The CA held further that as early as September 2005, respondent was declared unfit for duty by a company-designated physician in Tianjin, China, and later on, after tests were conducted, respondent was diagnosed with coronary artery atherosclerosis and severe three-vessel coronary artery disease; thus, respondent suffered a serious occupational disease that prevented his further deployment as seaman.

The CA added that respondent's illness was work-related, and can be attributed to the conditions he was working under as able seaman; he was exposed and subjected to stress and pressures at work which, after six months, resulted in his experiencing chest pain, fatigue and difficulty in breathing – and eventually, a diagnosis of coronary heart disease.

The CA noted further that even during the pendency of the labor case before the Labor Arbiter, Dr. Cruz did not render a final assessment of respondent's condition; as a result, the diagnosis of the company-designated physician in Gangyou Hospital in Tianjin, China that respondent was unfit for duty has not been overturned. Thus, the CA concluded that since Dr. Cruz failed to make a definite assessment of respondent's fitness or disability within the statutory 240-day period – and even thereafter, there can be no other conclusion than that respondent suffered permanent total disability.

Petitioners filed a Motion for Reconsideration,[26] but the CA denied the same in its July 21, 2010 Resolution. Hence, the present Petition.

Issues

Petitioners submit that –

THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) ORDERING THE DISMISSAL OF THE ABOVE-CAPTIONED LABOR COMPLAINT FINDS AMPLE SUPPORT IN THE EVIDENCE ON RECORD, IN MEDICAL RESEARCH, IN THE PERTINENT PROVISIONS OF THE POEA STANDARD CONTRACT, AND IN APPLICABLE JURISPRUDENCE. THE HONORABLE COURT OF APPEALS, IN ITS QUESTIONED DECISION PROMULGATED ON 20 APRIL 2010 AND RESOLUTION PROMULGATED ON 21

JULY 2010, GRAVELY ERRS [sic] WHEN IT ELECTED TO SET ASIDE AND/OR COMPLETELY IGNORE SUCH FACTUAL AND LEGAL FINDINGS ON THE PART OF THE NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) AND WHEN IT THEREAFTER RULED TO REVERSE AND TO SET ASIDE THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) ORDERING THE DISMISSAL OF THE ABOVE-CAPTIONED LABOR COMPLAINT FOR LACK OF MERIT.[27]

Petitioners' Arguments

Praying that the assailed CA dispositions be set aside and that a pronouncement be made dismissing respondent's labor complaint, petitioners maintain in their Petition and Reply[28] that contrary to the CA's declarations, respondent's illness is not work-related; that respondent's labor complaint was prematurely filed, while he was still undergoing treatment for his illness and before the company-designated physician/s could complete treatment and make a definite assessment of his condition; that they may not be blamed for the company-designated physician's failure to arrive at a final assessment of respondent's condition; that it has not been shown that respondent's treatment lasted for the statutory duration of 240 days, since he filed his labor complaint even before the said maximum 240-day treatment period could be reached and a definite assessment of his condition could be made; and that overall, respondent has not shown by substantial evidence that he is entitled to his claims.

Respondent's Arguments

In his Comment,[29] respondent argues that the issues raised in the Petition are factual in nature and no question of law is involved; that his illness is compensable as it is work-connected and constitutes an occupational disease under the POEA Contract Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels; that Dr. Cruz already knew of the gravity and serious nature of his condition, yet he refused to make the required definite assessment of his fitness or disability; and that the award of attorney's fees was proper.

Our Ruling

The Court denies the Petition.

Compensability

Regarding the issue of compensability, it has been the Court's consistent ruling that in disability compensation, "it is not the injury which is compensated, but rather it is the incapacity to work resulting in the impairment of one's earning capacity."[30] Moreover, "the list of illnesses/diseases in Section 32-A[31] does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties."[32]

Just the same, in several cases, cardiovascular disease, coronary artery disease, as well as other heart ailments were held to be compensable.[33] Likewise, petitioners failed to refute respondent's allegations in his Position Paper that in the performance of his duties as Able Seaman, he inhaled, was exposed to, and came into direct contact with various injurious and harmful chemicals, dust, fumes/ emissions, and other irritant agents; that he performed strenuous tasks such as lifting, pulling, pushing and/or moving equipment and materials on board the ship; that he was constantly exposed to varying temperatures of extreme hot and cold as the ship crossed ocean boundaries; that he was exposed as well to harsh weather conditions; that in most instances, he was required to perform overtime work; and that the work of an Able Seaman is both physically and mentally stressful. It does not require much imagination to realize or conclude that these tasks could very well cause the illness that respondent, then already 47 years old, suffered from six months into his employment contract with petitioners. The following pronouncement in a recent case very well applies to respondent:

> x x x His constant exposure to hazards such as chemicals and the varying temperature, like the heat in the kitchen of the vessel and the coldness outside, coupled by stressful tasks in his employment caused, or at least aggravated, his illness. It is already recognized that any kind of work or labor produces stress and strain normally resulting in wear and tear of the human body.[34]

Notably, it is "a matter of judicial notice that an overseas worker, having to ward off homesickness by reason of being physically separated from his family for the entire duration of his contract, bears a great degree of emotional strain while making an effort to perform his work well. The strain is even greater in the case of a seaman who is constantly subjected to the perils of the sea while at work abroad and away from his family."[35]

Assessment by company-designated physician

The company-designated physician must arrive at a definite assessment of the seafarer's fitness to work or permanent disability within the period of 120 or 240 days, pursuant to Article 192 (c)(1) of the Labor Code and Rule X, Section 2 of the AREC.[36] If he fails to do so and the seafarer's medical condition remains unresolved, the latter shall be deemed totally and permanently disabled.

Respondent was repatriated on September 18, 2005. He was further examined by the company-designated physician Dr. Cruz on September 21, 23 and 30, 2005; October 6, 2005; February 2, 13 and 17, 2006; March 6 and 20, 2006; and on April 19, 2006. And beginning from the February 2, 2006 medical report, respondent was diagnosed by Dr. Cruz with severe 3-vessel coronary artery disease, and was scheduled for coronary artery bypass surgery on February 24, 2006. After surgery, respondent continued his treatment with Dr. Cruz, who on the other hand continued to diagnose respondent with severe coronary artery disease even on respondent's last consultation on April 19,

2006.

Concededly, the period September 18, 2005 to April 19, 2006 is less than the statutory 240-day – or 8-month – period. Nonetheless, it is impossible to expect that by May 19, 2006, or on the last day of the statutory 240-day period, respondent would be declared fit to work when just recently – or on February 24, 2006 – he underwent coronary artery bypass graft surgery; by then, respondent would not have sufficiently recovered. In other words, it became evident as early as April 19, 2006 that respondent was permanently and totally disabled, unfit to return to work as seafarer and earn therefrom, given his delicate post-operative condition; a definitive assessment by Dr. Cruz before May 19, 2006 was unnecessary. Respondent would to all intents and purposes still be unfit for sea-duty. Even then, with Dr. Cruz's failure to issue a definite assessment of respondent's condition on May 19, 2006, or the last day of the statutory 240-day period, respondent was thus deemed totally and permanently disabled pursuant to Article 192 (c)(1) of the Labor Code and Rule X, Section 2 of the AREC.

Premature labor complaint

Neither may it be argued by the petitioners that respondent's filing of the labor complaint on February 10, 2006 should affect the outcome of the case. It is difficult to blame respondent for deciding to sue, considering that he has been diagnosed by no less than three separate physicians – Drs. Dizon, Vicaldo, and Cruz – with severe three-vessel coronary artery disease which required bypass procedure. Respondent may have been acting under a sense of extreme urgency given the life-threatening nature of his illness. The filing of the labor complaint may have been designed to pressure petitioners into taking action to address his condition, or to recover expenses should he decide to proceed with the bypass procedure on his own. Either way, the Court cannot subscribe to the view that there was a premature resort to litigation since respondent was still undergoing treatment for his illness and the company-designated physician has not completed treatment and made a definite assessment of his condition.

Indeed, it may even be said that with Dr. Cruz's February 2, 2006 diagnosis that respondent was suffering from severe three-vessel coronary artery disease which required immediate bypass graft procedure or surgery, respondent believed himself permanently and totally disabled which thus led him to demand disability benefits and thereafter file the labor case when petitioners ignored his demand.

Attorney's fees

On the issue of attorney's fees, while petitioners have not been shown to act in gross and evident bad faith in refusing to satisfy respondent's demands, it is nonetheless true as a matter of law and it has been held in the past that where an employee is forced to litigate and incur expenses to protect his right and interest, he is entitled to an award of attorney's fees equivalent to ten percent (10%) of the total award at the time of actual payment.[37]

WHEREFORE, the Petition is **DENIED**. The assailed April 20, 2010 Decision and July 21, 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 107330 are **AFFIRMED**

in toto.

SO ORDERED.

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

---

[1] If further medical treatment is necessary.

[2] *Rollo,* pp. 63-104.

[3] Id. at 106-123; penned by Associate Justice Sesinando E. Villon and concurred in by Associate Justices Rebecca R. de Guia-Salvador and Amy C. Lazaro-Javier.

[4] Id. at 125.

[5] Id. at 209.

[6] Id. at 228.

[7] Id. at 70, 108, 128, 141.

[8] Id. at 261-262.

[9] Id. at 263-271.

[10] Id. at 240-241.

[11] Id. at 242-243.

[12] Id.

[13] Id. at 224-225.

[14] Id. at 226-235.

[15] Id. at 272-279.

[16] Id. at 244-257.

[17] Id. at 280-286.

[18] Id. at 126-137; penned by Labor Arbiter Donato G. Quinto, Jr.

[19] Id. at 136-137.

[20] Id. at 139-147; penned by Presiding Commissioner Lourdes C. Javier and concurred in by Commissioners Gregorio O. Bilog III and Pablo C. Espiritu, Jr.

[21] Id. at 146.

[22] Id. at 149-150.

[23] Id. at 146.

[24] Id. at 122.

[25] Article 192 (c) (1) of the Labor Code states:

Art. 192. Permanent total disability. – x x x

(c) 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;

x x x x

Likewise, Rule X, Section 2 of the Amended Rules on Employees Compensation provides:

RULE X
Temporary Total Disability

x x x x

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 anytime 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.

[26] *Rollo*, pp. 584-596.

[27] Id. at 82.

[28] Id. at 642-660.

[29] Id. at 609-628.

[30] *Valenzona v. Fair Shipping Corporation,* G.R. No. 176884, October 19, 2011, 659 SCRA 642, 652-653, citing *Quitoriano v. Jebsens Maritime, Inc.*, G.R. No. 179868, January 21, 2010, 610 SCRA 529, 536; *Iloreta v. Philippine Transmarine Carriers, Inc.*, G.R. No. 183908, December 4, 2009, 607 SCRA 796, 804, citing *Philimare, Inc./Marlow Navigation Company, Ltd. v. Suganob,* 579 Phil. 706, 715 (2008).

[31] Section 32-A of the POEA Contract Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels states:

SECTION 32-A OCCUPATIONAL DISEASES

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

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

The following diseases are considered as occupational when contracted: x x x

[32] *Maersk Filipinas Crewing Inc. v. Mesina,* G.R. No. 200837, June 5, 2013.

[33] *Jebsens Maritime, Inc. v. Undag,* G.R. No. 191491, December 14, 2011, 662 SCRA 670; *Oriental Shipmanagement Co., Inc. v. Bastol*, G.R. No. 186289, June 29, 2010, 622 SCRA 352; *Iloreta v. Philippine Transmarine Carriers, Inc.,* supra note 30; *Micronesia Resources v. Cantomayor,* 552 Phil. 130 (2007); *Remigio v. National Labor Relations Commission,* 521 Phil. 330, 347 (2006); and *Heirs of the late Aniban v. National Labor Relations Commission*, 347 Phil. 46 (1997), citing *Tibulan v. Hon. Inciong*, 257 Phil. 324 (1989); *Cortes v. Employees' Compensation Commission*, 175 Phil. 331 (1978); and *Sepulveda v. Employees' Compensation Commission*, 174 Phil. 242 (1978).

[34] *Magsaysay Maritime Services v. Laurel,* G.R. No. 195518, March 20, 2013, 694 SCRA 225, 241-242.

[35] *Heirs of the late Aniban v. National Labor Relations Commission,* supra note 32 at 54.

[36] See note 25.

[37] CIVIL CODE OF THE PHILIPPINES, Article 2208; *3rd Alert Security and Detective Services, Inc. v. Navia,* G.R. No. 200653, June 13, 2012, 672 SCRA 649, 654;

Valenzona v. Fair Shipping Corporation, supra note 30 at 657; *Quitoriano v. Jebsens Maritime, Inc.,* supra note 30 at 537.
