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SECOND DIVISION

[G.R. No. 210660, January 21, 2015]

**FLOR G. DAYO, PETITIONER, VS. STATUS MARITIME CORPORATION
AND/OR NAFTO TRADE SHIPPING COMMERCIAL S.A.,
RESPONDENTS.**

D E C I S I O N

LEONEN, J.:

This resolves the Petition for Review on Certiorari^[1] filed by petitioner Flor G. Dayo, assailing the Decision^[2] of the Court of Appeals in CA-G.R. SP No. 118406. The Court of Appeals affirmed the Decision of the National Labor Relations Commission, which reversed the Decision of the Labor Arbiter.^[3]

Eduardo P. Dayo (Eduardo) was hired by Status Maritime Corporation for and on behalf of Nafto Trade Shipping Commercial S.A. He was hired as a bosun on board the "MV Naftocement 1" for a period of 10 months, with a monthly salary of US\$500.00. Prior to embarkation, he underwent a pre-employment medical examination and was declared fit to work.^[4]

Eduardo embarked on June 8, 2008.^[5] On September 5, 2008, he "experienced severe pain on his hips and both knees, and total body weakness."^[6] He was given medical attention in Bridgetown, Barbados, where he was diagnosed with hypertension.^[7] He was repatriated on September 7, 2008.^[8]

The next day, Eduardo went to Status Maritime Corporation's office, but he was informed that it was waiting for Nafto Trade Shipping Commercial S.A.'s notification. He was also told that he could seek medical attention and that his expenses would be reimbursed. On September 9, 2008, he went to the Lucena United Doctors Hospital. Dr. Olitoquit, Eduardo's private physician, found the results of his 2D echocardiogram as normal.^[9]

Eduardo repeatedly requested for medical assistance, but it was only in November 2008 when he was referred to a company-designated physician. Dr. Bolanos of the Metropolitan Hospital diagnosed him with diabetes mellitus.^[10]

Status Maritime Corporation stopped giving Eduardo medical assistance in February 2009. He died on June 11, 2009 due to cardiopulmonary arrest. Flor G. Dayo (Flor), Eduardo's wife, requested for death benefits to no avail. Thus, she filed a complaint.^[11]

On the other hand, Status Maritime Corporation alleges that Eduardo was examined by the company-designated physician on September 24, 2008. His medical history showed that he had been suffering from diabetes mellitus and hypertension since the 1990s.^[12] He underwent an electromyography and nerve conduction velocity (EMG-NCV) testing, and the results showed that he had diffused "sensimotor polyneuropathy as seen in diabetes mellitus."^[13] He was also examined by a neurologist and an orthopedic surgeon.^[14] The company-designated physician noted that the illness was pre-existing.^[15]

In January 2009, the company-designated physician assessed that Eduardo's polyneuropathy secondary to diabetes mellitus was not work-related.^[16]

The Labor Arbiter ruled in favor of Flor and awarded death benefits, burial expenses, and attorney's fees.^[17] The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents jointly and severally liable:

- 1) To pay complainant the amount of US\$50,000.00, or its equivalent in Philippine Peso at the prevailing rate of exchange at the time of actual payment, representing the death benefits of the late Eduardo P. Dayo;
- 2) To pay complainants the amount of US\$1,000.00, or its equivalent in Philippine Peso at the prevailing rate at the time of actual payment, representing the burial expenses;
- 3) To pay complainant the amount equivalent to ten (10%) percent of the total judgment award, as and for attorney's fees;

Other monetary claims are dismissed for lack of merit.

SO ORDERED.^[18]

Status Maritime Corporation appealed to the National Labor Relations Commission.^[19] In the Decision dated September 30, 2010, the National Labor Relations Commission First Division reversed the Labor Arbiter's Decision and held that:

WHEREFORE, premises considered, the appeal of respondents is GRANTED. Thus, the appealed Decision is hereby REVERSED and SET ASIDE, and another one entered DISMISSING the instant complaint for lack of merit.

SO ORDERED.^[20]

Flor filed a Motion for Reconsideration, but it was denied by the National Labor Relations Commission in the Resolution dated December 30, 2010.^[21] She then filed a Petition for Certiorari before the Court of Appeals, arguing that her husband died from a work-related illness, thus, it was grave abuse of discretion for the National Labor Relations Commission to reverse the Labor Arbiter's ruling.^[22] The Court of Appeals denied the petition, ruling that since Eduardo died after the term of his contract with Status Maritime Corporation, "his beneficiaries are not entitled to the death benefits[.]"^[23]

The Court of Appeals cited *GSIS v. Valenciano*^[24] where this court held that "diabetes mellitus is not an occupational disease[.]"^[25] The Court of Appeals also cited Section 32-A of the 2000 Philippine Overseas Employment Administration Amended Standard Terms and Conditions that does not list diabetes mellitus as an occupational disease.^[26]

Eduardo died after the term of his contract with Status Maritime Corporation. It was clear then that his beneficiaries were not entitled to death benefits.^[27] In addition, the Court of Appeals held that Flor failed to substantiate her allegation that Eduardo's illness and cause of death were work-related.^[28] A portion of the Court of Appeals Decision states:

Time and again, we have ruled that self-serving and unsubstantiated declarations are insufficient to establish a case before quasi-judicial bodies where the quantum of evidence required to establish a fact is substantial evidence. Often described as more than a mere scintilla, substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other equally reasonable minds might conceivably opine otherwise. Thus, in the absence of substantial evidence, working conditions cannot be presumed to have increased the risk of contracting the disease.

. . . .

WHEREFORE, the premises considered, the Petition is hereby DENIED. The Decision dated 30 September 2010 of the National Labor Relations Commission (NLRC) and its Resolution dated 30 December 2010 are **AFFIRMED in toto**.

SO ORDERED.^[29] (Citations omitted)

Flor moved for the reconsideration^[30] of the Court of Appeals Decision that was denied in the Resolution^[31] dated December 12, 2013.

Petitioner filed this Petition for Review on Certiorari, arguing that the Court of Appeals

erred in denying her Petition, considering that Eduardo's death was brought about by a work-related illness.^[32]

In deciding a Rule 45 Petition for Review on Certiorari of a Court of Appeals Decision in a Rule 65 Petition for Certiorari, this court is limited to determining whether the Court of Appeals was correct in establishing the presence or absence of grave abuse of discretion.^[33] Thus, the proper issue in this case is whether the Court of Appeals correctly determined that there was no grave abuse of discretion on the part of the National Labor Relations Commission when it denied petitioner Flor G. Dayo's claim for death benefits.

To support her claim for death benefits, petitioner cites Section 20(A), paragraphs (1) and (4) of the 2000 Philippine Overseas Employment Administration Standard Employment Contract (POEA SEC)^[34] which state that:

Section 20. Compensation and Benefits

A. Compensation and Benefits for Death

1. In case of work-related death of the seafarer, during the term of his contract the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.

. . . .

4. The other liabilities of the employer when the seafarer dies as a result of work-related injury or illness during the term of employment are as follows:
 - a. The employer shall pay the deceased's beneficiary all outstanding obligations due the seafarer under this Contract.
 - b. The employer shall transport the remains and personal effects of the seafarer to the Philippines at employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the master's best judgment. In all cases, the employer/master shall communicate with the manning agency to advise for disposition of seafarer's remains.

- c. The employer shall pay the beneficiaries of the seafarer the Philippines [sic] currency equivalent to the amount of One Thousand US dollars (US\$1,000) for burial expenses at the exchange rate prevailing during the time of payment.

Petitioner also points out that prior to embarkation, Eduardo was given a “fit to work” certification. Yet, he was repatriated due to hypertension. Therefore, his illness was contracted on board the vessel, and his death should be compensated by his employer even though he died after the term of his contract.^[35]

On the other hand, respondents argue that the Court of Appeals’ ruling was correct since Eduardo died after the term of his contract.^[36] His illness, diabetic polyneuropathy secondary to diabetes, is not included in the list of occupational diseases.^[37] Petitioner failed to show the causation between Eduardo’s work and illness leading up to his death.^[38] Petitioner did not even refute the findings of the company-designated physician.^[39]

The Court of Appeals found that there was no grave abuse of discretion on the part of the National Labor Relations Commission when it denied the claim for death benefits since Eduardo died after the term of his contract. The Court of Appeals also explained that:

[u]nder the Amended POEA Contract, the important requirement of work-relatedness was incorporated. The incorporation of the work-related provision has made essential causal connection between a seafarer’s work and the illness upon which the claim of disability is predicated upon.

. . . .

It should be emphasized that it is petitioner who has the burden of evidence to prove that the illness for which she anchors her present claim for her husband’s disability benefits is work-related.^[40]

In this case, petitioner does not dispute the fact that her husband died after the term of his contract. Instead, she emphasizes that her husband died due to a work-related illness. Petitioner also argues that:

[she] was not merely faking [her] husband’s disability. The Medical Records cannot lie and he was seen by a doctor abroad regarding his illness which eventually [brought] about his death.^[41]

Petitioner cites Section 20(A), paragraphs (1) and (4) to support her claim for death benefits. She also cites the second paragraph of Section 20(B) to support her claim for

reimbursement of medical and transportation expenses.^[42]

The 2000 POEA SEC defines work-related illness as “any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied.”^[43]

The facts of this case indicate that the physician in Barbados diagnosed Eduardo with hypertension.^[44] He underwent 2D echocardiogram at the Lucena United Doctors Hospital, and the results were interpreted by Dr. Olitoquit as normal.^[45] When Eduardo was examined by the company-designated physician, he admitted that he had been suffering from diabetes mellitus and hypertension since the 1990s.^[46] This shows that his illness was pre-existing. His cause of death was cardiopulmonary arrest.^[47]

The 2000 POEA SEC recognizes that the list of illnesses under Section 32 is not exhaustive. In *Sea Power Shipping Enterprises, Inc. v. Salazar*,^[48] this court explained that:

[u]nlike Section 20(A), Section 32-A of the POEA Contract considers the possibility of compensation for the death of the seafarer occurring after the termination of the employment contract on account of a work-related illness. But, for death under this provision to be compensable, the claimant must fulfill the following:

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.^[49]

Magsaysay Maritime Services v. Laurel^[50] also recognized that the nature of employment can possibly aggravate a pre-existing illness. However, the causation between the nature of employment and the aggravation of the illness must still be proven before compensation may be granted.

Settled is the rule that for illness to be compensable, it is not necessary that the nature of the employment be the sole and only reason for the illness suffered by the seafarer. It is sufficient that there is a reasonable linkage between the disease suffered by the employee and his work to lead a rational mind to conclude that his work may have contributed to the

establishment or, at the very least, aggravation of any pre-existing condition he might have had.^[51] (Citation omitted)

Petitioner was unable to fulfill these requirements. She did not allege how the nature of Eduardo's work as a bosun^[52] contributed to the development or the aggravation of his illness. Further, he himself admitted that he had diabetes and hypertension prior to his embarkation. Considering that diabetes mellitus is not listed as an occupational disease under the 2000 POEA SEC and considering that petitioner did not prove how Eduardo's occupation contributed to the development of his illness, no error can be attributed to the Court of Appeals when it affirmed the National Labor Relations Commission's Decision and Resolution.

Petitioner further argues that respondents should not be absolved from any liability simply because Eduardo died after the term of his contract.^[53]

Indeed, it is quite possible that a work-related illness may progress at a slow pace such that a seafarer's death will happen beyond the term of the employment contract. In such cases, the provisions of the POEA SEC should not limit the rights of seafarers to be compensated.

The concurring opinion in *Interorient Maritime Enterprises, Inc. v. Creer III*^[54] discussed that:

[t]he Philippine Overseas Employment Administration or POEA regulations require certain provisions to be put in the employment contract. Necessarily, it prescribes a procedure that finds a balance of interest in both the amount and the process for recovery of compensation as a result of occupational hazards suffered by the seafarer. The cause of action in such recovery is based on contract inclusive of both statutory and regulatory provisions impliedly included in it.

While this may be the theory pursued in practice, substantive law still allows recovery of damages for injuries suffered by the seafarer as a result of a tortious violation on the part of the employer. This may be on the basis of the provisions of the Civil Code as well as special laws. These special laws may relate, among others, to environmental regulations and requirements to ensure the reduction of risks to occupational hazards both for the seafarer and the public in general. In such cases, the process for recovery should not be constrained by contract.^[55]

However, petitioner did not allege facts that would sway this court to grant the Petition. She did not present evidence to show how Eduardo's diabetes mellitus was aggravated by his work and how his illness caused his death. On the contrary, petitioner's allegations further convinced this court that the Court of Appeals did not err

in its Decision. A portion of the Petition for Review reads:

12.3 In the case at bar, it bears to stress that Mr. Dayo was certified as “fit to work” based on a pre-employment medical examination. He was deployed on 8 June 2008 and was repatriated on 7 September 2008 due to HYPERTENSION. Upon his arrival in the Philippines, respondents refused to provide Mr. Dayo medical assistance. But due to his critical condition, Mr. Dayo went to Lucena United Doctors Hospital for medical evaluations. He was advi[sed] to undergo [a] series of medical and laboratory tests. Thereafter, Dr. Olitoquit, Mr. Dayo’s attending physician, came up with a conclusion that: “NORMAL LEFT VENT[R]ICULAR DIMENSION WITH ADEQUATE WALL MOTION AND CONTRACTILITY; NORMAL LEFT AND RIGHT ATRIA, RIGHT VENTRICLE, MAIN PULMONARY ARTERY AND AORTIC ROOT DIMENSION’S [sic]. STRUCTURALLY NORMAL TRICUSPID, PULMONIC, MITRAL AND AORTIC VALVE. CONCLUSION: NORMAL 2D ECHO-CARDIOGRAM STUDY.”^[56]

From petitioner’s allegations, it is clear that Eduardo’s physician found him to have a “normal 2D echocardiogram study.”^[57] This disproves petitioner’s allegation that Eduardo’s illness and death were work-related.

Regarding Eduardo’s “fit to work” certification, this court has previously ruled that the pre-employment medical examination (PEME) is not exploratory and while:

[t]he PEME merely determines whether one is “fit to work” at sea or “fit for sea service,” it does not state the real state of health of an applicant. In short, the “fit to work” declaration in the respondent’s PEME cannot be a conclusive proof to show that he was free from any ailment prior to his deployment. Thus we held in *NYK-F[il] Ship Management, Inc. v. NLRC*:^[58]

While a PEME may reveal enough for the petitioner (vessel) to decide whether a seafarer is fit for overseas employment, it may not be relied upon to inform petitioners of a seafarer’s true state of health. The PEME could not have divulged respondent’s illness considering that the examinations were not exploratory.^[59]

While we commiserate with petitioner, this petition must be denied for failure to show any reversible error on the part of the Court of Appeals. It is true that labor contracts are construed in favor of the employee. However, the facts of this case and the applicable laws show that the grant of death benefits cannot be justified.

WHEREFORE, this court resolves to deny the Petition. The assailed Court of Appeals Decision and Resolution are hereby **AFFIRMED**.

SO ORDERED.

*Carpio, (Chairperson), Velasco, Jr., * Del Castillo, and Mendoza, JJ., concur.*

* Designated acting member per S.O. No. 1910 dated January 12, 2015.

[1] *Rollo*, pp. 2–21.

[2] *Id.* at 25–37. The Decision was penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Jose C. Reyes, Jr. (Chair) and Mario V. Lopez of the Ninth Division.

[3] *Id.* at 29–30 and 37.

[4] *Id.* at 25–26.

[5] *Id.* at 26.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.* at 26–27.

[10] *Id.* at 27.

[11] *Id.* at 27–28.

[12] *Id.* at 28.

[13] *Id.*

[14] *Id.*

[15] *Id.* at 28–29.

[16] *Id.* at 29.

[17] *Id.*

[18] *Id.*

[19] Id. at 30.

[20] Id.

[21] Id.

[22] Id. at 32.

[23] Id. at 33.

[24] 521 Phil. 253, 260 (2006) [Per J. Ynares-Santiago, First Division].

[25] *Rollo*, p. 35.

[26] Id. at 34–35.

[27] Id. at 33.

[28] Id. at 36.

[29] Id. at 36–37.

[30] Id. at 40–45.

[31] Id. at 38–39. The Resolution was penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Jose C. Reyes, Jr. (Chair) and Mario V. Lopez of the Former Ninth Division.

[32] Id. at 10.

[33] J. Brion, dissenting opinion in *Abbott Laboratories, Phils., et al. v. Alcaraz*, G.R. No. 192571, April 22, 2014 4–5 [Per J. Perlas-Bernabe, En Banc].

[34] *Rollo*, p. 10.

[35] Id. at 11–13.

[36] Id. at 60.

[37] Id. at 63.

[38] Id.

[39] Id. at 67.

[40] Id. at 35.

[41] Id. at 14.

[42] Id. at 18.

[43] 2000 POEA Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels, Definition of Terms, par. (12). This definition was amended by POEA Memorandum Circular No. 10 (2010).

[44] *Rollo*, p. 26.

[45] Id. at 27.

[46] Id. at 28.

[47] Id. at 27.

[48] G.R. No. 188595, August 28, 2013, 704 SCRA 233 [Per C.J. Sereno, First Division].

[49] Id. at 246.

[50] G.R. No. 195518, March 20, 2013, 694 SCRA 225 [Per J. Mendoza, Third Division].

[51] Id. at 242.

[52] See Woods Hole Oceanographic Institution, *Safety Management Manual*, sec. 7.2.1. 3 (visited January 20, 2015). A bosun performs several functions on board a ship such as, but not limited to, keeping the Chief Mate updated on all ship matters, supervising unlicensed personnel "in the sanitation and maintenance of deck department spaces, decks, tools, equipment and associated gear," and giving assistance in training crew members.

[53] *Rollo*, p. 14.

[54] G.R. No. 181921, September 17, 2014 [Per J. Del Castillo, Second Division].

[55] J. Leonen, concurring opinion in *Interorient Maritime Enterprises, Inc. v. Creer III*, G.R. No. 181921, September 17, 2014 3 [Per J. Del Castillo, Second Division].

[56] *Rollo*, p. 14.

[57] Id.

[58] 534 Phil. 725, 739 (2006) [Per J. Carpio Morales, Third Division].

[59] *Quizora v. Denholm Crew Management (Philippines), Inc.*, G.R. No. 185412, November 16, 2011, 660 SCRA 309, 322 [Per J. Mendoza, Third Division], citing *Magsaysay Maritime Corporation v. National Labor Relations Commission* (Second Division), 630 Phil. 352, 367 (2010) [Per J. Brion, Second Division]. See also *The Estate of Posedio Ortega v. Court of Appeals*, 576 Phil. 601, 610 (2008) [Per J. Tinga, Second Division] and *Status Maritime Corporation v. Spouses Delalamon*, G.R. No. 198097, July 30, 2014 11 [Per J. Reyes, First Division].



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