Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

ALFREDO MALLARI MAGAT, Petitioner, - *versus* - **INTERORIENT MARITIME ENTERPRISES, INC., INTERORIENT MARITIME ENTERPRISE LIBERIA FOR DROMON E.N.E. and JASMIN P. ARBOLEDA,** Respondents.	**G.R. No. 232892** **Presents:** CARPIO,* *J., Chairperson,* PERALTA, PERLAS-BERNABE, CAGUIOA, and REYES, JR.,** *JJ.* **Promulgated:** 04 APR 2018

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DECISION

PERALTA, *J.*:

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated September 2, 2017 of petitioner Alfredo Mallari Magat that seeks to reverse and set aside the Decision[1] dated October 25, 2016 and the Resolution[2] dated July 5, 2017, both of the Court of Appeals (*CA*) in CA-G.R. SP No. 138327 and prays for the reinstatement of the Decision[3] dated August 14, 2014 of the National Labor Relations Commission (*NLRC*) granting petitioner disability benefits in the amount of US$60,000.00 and ten percent (10%) thereof as attorney's fees, in Philippine peso at the time of payment.

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* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

** On wellness leave.

1 Penned by Associate Justice Zenaida T. Galapate-Laguilles with the concurrence of Associate Justices Florito S. Macalino and Leoncia R. Dimagiba, *rollo,* pp. 11-23.

2 *Rollo,* pp. 71-72.

3 *Id.* at 106-116.

Petitioner has started work with respondent Interorient Maritime Enterprises, Inc. (*respondent company*) as an Able Seaman on board different vessels since March 2007. Sometime in May 2011, respondent company once again employed the services of petitioner on board the vessel MT North Star for a period of nine (9) months. Petitioner underwent a Pre-Employment Medical Examination (*PEME*) as a requisite for his latest employment and was certified "fit to work," thus, he was deployed on July 1, 2011.

Part of petitioner's job assignment was to paint the ship's pump room and due to the poor ventilation in the said room, petitioner claimed that he was able to inhale residues and vapors coming from the paint and thinner that he used. As such, petitioner suffered shortness of breath and chest pains which he claimed to have reported to the Chief Mate but was told by the latter to just rest. When his condition improved, petitioner continued to perform his duties until he was able to complete his contract on July 6, 2012.

Upon his repatriation, petitioner reported immediately to respondent company and asked for a referral to the company physician for a medical examination of his heart condition but the latter ignored petitioner's request. Petitioner was then asked to execute an Offsigner's Data Slip on July 9, 2012 indicating therein that he did not experience any illness or injury during his employment on board the vessel, and manifested his willingness to join the vessel again after three (3) months. However, due to episodes of chest pains, petitioner went to the Veterans Memorial Medical Center on the same date for consultation and was attended to by Dr. Liberato Casison, a specialist in Internal Medicine, advising him to rest and prescribing certain medications.

After resting and taking the prescribed medication, petitioner re-applied with respondent company and was recommended for PEME. The result of petitioner's tests revealed that he had the "*Hypertension controlled with maintenance medication; Dilated Cardiomyopathy; R/out ischemic etiology; Renal parenchymal calcification bilateral; Suggest coronaryangiogram.*" Petitioner was not deployed due to the said findings.

Thereafter, on March 1, 2013, petitioner again consulted Dr. Casison in order to find out the real status of his medical condition. After being examined, Dr. Casison issued his Medical Evaluation, which reads as follows:

> Medical Evaluation March 1, 2013
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> History revealed that subject was Pump Room Worker aboard a tanker (MT North Star) was suddenly seized with severe chest pain associated

> with dyspnea and body weakness. He was put to bed rest and just under observation. No medication was taken. He was eventually retired on July 6, 2012 and repatriated to the Philippines. At this time, he continued to have easy fatiguability and chest pains. On November 1, 2012, cardiology consultation was made. For a more definitive diagnosis, coronary angiogram was made at YGEIA Medical Center, and likewise 2-D Echo. He was found to have an Ejection Fraction of 85% (very low) with dilatation of left atrium and left ventricle with moderate mitral regurgitation and tricuspid regurgitation.
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> The above chronology and history indicates a disabling coronary artery disease. He is a potential candidate for myocardial infarction, congestive heart failure, & arrhythmia (ventricular and atrial), which may prove fatal with the above condition. Subject is considered disabled for work.[4]

Thus, petitioner filed a complaint for payment of permanent disability benefits and other money claims against respondent company on September 25, 2013 claiming that as certified by his own physician, he developed a cardiovascular disease, which is listed as an occupational disease under Section 32-A of the Philippine Overseas Employment Administration-Standard Employment Contract (*POEA-SEC*). Petitioner claimed that his illness was brought about by his poor diet, exposure to harmful chemicals and stressful work environment on board the vessel. He added that prior to his last employment, he underwent and passed his PEME without any indication that he was suffering from any heart disease. He also contended that considering his physician's assessment of Grade 1 disability, he should be declared totally and permanently incapacitated to resume his duties and thus entitled to total and permanent disability benefits.

Respondents, however, insisted that petitioner was repatriated not for medical reasons but because his contract has already ended. Respondent company also argued that petitioner's failure to submit himself to PEME to be conducted by the company-designated physician upon repatriation, resulted in the forfeiture of his right to claim for sickness allowance. Respondent company further contended that petitioner was not deployed by respondent company when he applied again because he failed to pass his PEME due to the findings of the company-designated physician that he was suffering from hypertension. Furthermore, respondent company claimed that Dr. Casison executed an affidavit stating that he does not remember having issued any prescription to petitioner on July 9, 2012 and that he had only seen him once on March 1, 2013 when he issued the Medical Certificate to him after having reviewed the latter's 2-D Echo Report.

The Labor Arbiter, in her Decision dated March 31, 2014, rendered a Decision in favor of petitioner, the dispositive portion of which reads as follows:

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4 *Id.* at 158-160.

> WHEREFORE, premises considered, respondents INTERORIENT MARITIME ENTERPRISES, INC., INTERORIENT MARITIME ENTERPRISE-LIBERIA for DROMON E.N.E. and JASMIN P. ARBOLEDA are ordered to pay jointly and severally complainant Alfredo M. Magat, disability benefits of US$60,000.00 and ten percent (10%) thereof as attorney's fees, in Philippine Peso at the time of the payment. All other claims are denied.
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> SO ORDERED.[5]

According to the Labor Arbiter, petitioner's job as able bodied seaman had contributed even in a small degree to the development of his cardiovascular disease. It was also ruled that the fact that petitioner signed-off from MT North Star due to "completion of contract" does not bar recovery of his disability claims considering that he aptly established reasonable causation of his cardiovascular disease and his work as able bodied seaman. The respondent, therefore, elevated the case to the NLRC.

The NLRC, in its Decision dated August 14, 2014, affirmed the Decision of the Labor Arbiter, thus:

> WHEREFORE, premises considered, the appeal is hereby DENIED. The assailed Decision of the Labor Arbiter is AFFIRMED.
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> SO ORDERED.[6]

The Commission held that there is substantial basis to conclude that petitioner's heart disease is work-related. It also ruled that petitioner's heart disease could not have developed during that short period between his repatriation and medical examination, hence, petitioner acquired or developed his illness during the term of his contract.

Respondents' motion for reconsideration having been denied, they filed a petition under Rule 65 of the Rules of Court with the CA and in its Decision dated October 25, 2016, the latter granted the petition and reversed and set aside the decision of the NLRC, thus:

> WHEREFORE, the instant Petition is GRANTED. The assailed Decision dated August 14, 2014 and Resolution dated September 30, 2014 of the public respondent in NLRC LAC No. (OFW M) 06-000477-14, NLRC NCR Case No. (M) 09-13306-13 are hereby REVERSED and SET ASIDE. Accordingly, respondent Magat's Complaint is DISMISSED for lack of merit.

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5 *Id.* at 104.

6 *Id.* at 113-114.

> Respondent Magat is hereby DIRECTED to restitute or reimburse any and all amounts that petitioner company has paid him, in the event [that] the aforesaid Decision and Resolution of the public respondent have already been executed.
>
> SO ORDERED.[7]

The CA ruled that petitioner's bare allegations do not suffice to discharge the required quantum of proof of compensability. It added that nowhere in the records can it find any documentation or medical report that petitioner contracted such heart illness aboard M/T North Star.

Petitioner filed a motion for reconsideration, but it was denied in the CA's Resolution dated July 5, 2017.

Hence, the present petition with the following ground:

> THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN ANNULLING AND SETTING ASIDE THE DECISION OF THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION WHICH AFFIRMED THE DECISION OF THE LABOR ARBITER GRANTING THE CLAIMS OF THE HEREIN PETITIONER FOR TOTAL AND PERMANENT DISABILITY BENEFITS.[8]

Petitioner contends that the adjudications of the NLRC, in accord with the findings of the Labor Arbiter, prove that both labor tribunals, in their respective jurisdiction, had meticulously scrutinized the pleadings submitted and the pieces of evidence adduced by the parties which led to the finding that he is entitled to the award of total and permanent disability benefits. Petitioner further argues that contrary to the CA's finding, petitioner had complied with the three (3)-day reporting requirement for post-employment medical examination with the company-designated physician but it was the respondents who failed to refer the petitioner to a company-designated physician for medical treatment. Petitioner also claims that the completion of contract is inconsequential to the entitlement of a seafarer to permanent disability benefits as long as a reasonable work connection exists.

In their Comment[9] dated January 3, 2018, respondents reiterated the decision of the CA.

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7 *Id.* at 22-23.
8 *Id.* at 36-37.
9 *Id.* at 185-190.

As a general rule, only questions of law raised via a petition for review under Rule 45 of the Rules of Court[10] are reviewable by this Court.[11] Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.[12] However, a relaxation of this rule is made permissible by this Court whenever any of the following circumstances is present:

1. [W]hen the findings are grounded entirely on speculations, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of fact are conflicting;
6. when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7. when the findings are contrary to that of the trial court;
8. when the findings are conclusions without citation of specific evidence on which they are based;
9. when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent;
10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [and]
11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[13]

Whether or not petitioner's illness is compensable is essentially a factual issue. Yet this Court can and will be justified in looking into it, considering the conflicting views of the NLRC and the CA.[14]

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10 Section 1, Rule 45 of the Rules of Court, as amended, provides:

Section 1. *Filing of petition with Supreme Court.* A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

11 *Philippine Transmarine Carriers, Inc., et al. v. Cristino*, 755 Phil. 108, 121 (2015), citing *Heirs of Pacencia Racaza v. Abay-Abay*, 687 Phil. 584, 590 (2012).

12 *Merck Sharp and Dohme (Phils.), et al. v. Robles, et al.*, 620 Phil. 505, 512 (2009).

13 *Co v. Vargas*, 676 Phil. 463, 471 (2011).

14 *Bandila Shipping, Inc., et al. v. Abalos,* 627 Phil. 152, 156 (2010), citing *Masangcay v. Trans-Global Maritime Agency, Inc.*, 590 Phil. 611, 625 (2008).

For disability to be compensable under Section 20(B)(4) of the POEA-SEC, two elements must concur: (1) the injury or illness must be work-related; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.[15]

The POEA-SEC defines a work-related injury as "injury(ies) resulting in disability or death arising out of and in the course of employment," and a 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."[16] For illnesses not mentioned under Section 32, the POEA-SEC creates a disputable presumption in favor of the seafarer that these illnesses are work-related.[17] Notwithstanding the presumption, We have held that on due process grounds, the claimant-seafarer must still prove by substantial evidence that his work conditions caused or at least increased the risk of contracting the disease.[18] This is because awards of compensation cannot rest entirely on bare assertions and presumptions.[19] In order to establish compensability of a non-occupational disease, reasonable proof of work-connection is sufficient – direct causal relation is not required.[20] Thus, probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings.[21]

A careful review of the findings of the NLRC and the CA shows that petitioner was able to meet the required degree of proof that his illness is compensable as it is work-connected. The Labor Arbiter, as affirmed by the NLRC, correctly ruled that his work conditions caused or at least increased the risk of contracting the disease, thus:

> Indeed, as Able bodied Seaman at MT North Star, complainant was exposed to constant inhalation of hydrocarbons including residues and vapors of paints and paint thinners during their painting jobs especially when he painted the confined areas of the vessel. Paints contain toxic chemicals like lead and benzene which if inhaled would cause health problems including cardiovascular diseases. Added to that, complainant was also exposed to frequent consumption of foods rich in cholesterol and sodium that are known triggers of heart or blood vessel disease. Studies show that CVD or cardiovascular diseases or heart diseases are diseases

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15 *Leonis Navigation Co., Inc., et al. v. Obrero, et al.*, G.R. No. 192754, September 7, 2016, 802 SCRA 341, 348, citing *Tagle v. Anglo-Eastern Crew Management, Phils., Inc.*, 738 Phil. 871, 888 (2014).

16 POEA-SEC (2000), Definition of Terms.

17 POEA-SEC (2000), Sec. 20(B) (4).

18 *Philippine Transmarine Carriers, Inc. v. Aligway*, 769 Phil. 793, 805 (2015); *Dohle-Philman Manning Agency, Inc. v. Heirs of Andres G. Gazzingan*, 760 Phil. 861, 878 (2015); *Magsaysay Maritime Corporation v. National Labor Relations Commission (Second Division)*, 630 Phil. 352, 365 (2010).

19 *Casomo v. Career Philippines Shipmanagement, Inc.*, 692 Phil. 326, 334 (2012). The prevailing rule is analogous to the rule under the old Workmen's Compensation Act that a preliminary link between the illness and the employment must first be shown before the presumption of work-relation can attach.

20 *Grace Marine Shipping Corporation v. Alarcon*, 769 Phil. 474, 493 (2015).

21 *Gabunas, Sr. v. Scanmar Maritime Services, Inc.*, 653 Phil. 457, 468 (2010); *NFD International Manning Agents, Inc. v. NLRC*, 336 Phil. 466, 474 (1997).

> that involve the heart or blood vessels (arteries and veins) and among its risk factors include high dietary salt intake, dietary saturated fat and cholesterol and stress. Further studies also show that heart blood vessel disease develop slowly, over several years. Undoubtedly, taking into consideration the time element from the date that complainant signed-off from his vessel MT North Star and the nature of heart disease there is reasonable ground to infer that the complainant's heart disease and his work are rationally connected. It has been ruled that the quantum of evidence required in labor cases to determine the liability of an employer for the illness suffered by an employee under the POEA-SEC is not proof beyond reasonable doubt but mere substantial evidence or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Moreover, complainant had been deployed successively by respondents in a span of five years since 2007, where he first worked as Able Seaman, a position which he held until his last contract with MT North Star in 2011. In Seagull Shipmanagement and Transport, Inc. v. NLRC (388 Phil. 906 [2000]), it was held that "the seafarer has served contract for a significantly long amount of time, and that his employment has contributed, even to a small degree, to the development and exacerbation of his disease." Verily, complainant's job as able bodied seaman had contributed even in a small degree to the development of his cardiovascular disease.[22]

In affirming the findings of the Labor Arbiter, the NLRC aptly ruled as follows:

> It is well-settled that in order for disability to be compensable under the POEA-SEC, two elements must concur: (1) the injury or illness must be work-related; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.
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> As for the first element, we find substantial basis to conclude that complainant's heart disease is work-related. Complainant's case falls under Section 32-A, 11(c) of the 2010 POEA-SEC which states:
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> > If a person who was apparently asymptomatic 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 causal relationship.
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> In the absence of any supporting evidence for both parties, we resolve to give more credence to complainant's positive assertion that he suffered shortness of breath and chest pains following his work painting the ship's pump room. To note, respondents have not refuted having assigned to complainant such task. Adding in complainant's poor diet, advanced age (he was 52 at the time of the filing of the complaint), the stressful nature of his employment, and repeated hiring of his services by respondents, we find it reasonable to conclude that complainant's work as Able Seaman caused or contributed even to a small degree to the development or aggravation of complainant's heart disease.

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22 *Rollo*, pp. 99-100.

> As for the second element, we note that complainant was repatriated in July 2012. Only about four months thereafter, he was discovered to have heart disease in November 2012. Simply, complainant's heart disease could not have developed during that short period between his repatriation and medical examination. Complainant acquired or developed his illness during the term of his contract.
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> Curiously, both parties failed to present complainant's PEME results with respect to his last employment on board MT North Star. Nonetheless, since he was accepted and deployed by respondents, it is safe to say that he passed the PEME without any finding that he had a pre-existing heart ailment, or that respondents accepted him despite being aware of his condition. In any case, respondents, in hiring complainant despite his advanced age and pre-existing hypertension, assumed the risk of liability for his health. They cannot be allowed to subsequently evade such liability by claiming that complainant's illness was discovered only after his employment was terminated.[23]

The above findings of the Labor Arbiter and the NLRC clearly show how petitioner acquired or developed his illness during the term of his contract. The CA reversed the NLRC decision by ruling that nothing in the records, documentation or medical report, show that petitioner contracted his illness aboard M/T North Star, however, despite such, the fact that petitioner was able to pass his PEME without any finding that he had a pre-existing heart ailment before boarding the vessel and later on finding, after the termination of his contract that he has acquired the said heart ailment, one can conclude that such illness developed while he was on board the same vessel. The work assigned to the petitioner (*i.e.,* painting the ship's pump room), poor diet, advanced age, the stressful nature of his employment, and repeated hiring of his services by respondents, would all lead to the conclusion that the work of petitioner as Able Seaman caused or contributed even to a small degree to the development or aggravation of complainant's heart disease. In determining whether a disease is compensable, it is enough that there exists a reasonable work connection.[24] It is sufficient that the hypothesis on which the workmen's claim is based is probable since probability, not certainty is the touchstone.[25]

The CA also ruled that petitioner failed to submit himself to the mandatory post-employment medical examination within three (3) days from his arrival in the Philippines and neither was there any indication that he was physically incapacitated to do so. Petitioner, on the other hand, claims that it was the respondents who failed to refer him to a company-designated physician for medical treatment. It must be remembered, however, that "while the mandatory reporting requirement obliges the

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23 *Id.* at 111-113.

24 *Limbo v. ECC*, 434 Phil. 703, 708 (2002); *Sarmiento v. ECC*, 228 Phil. 400, 407 (1986).

25 *Id.* at 707.

seafarer to be present for the post-employment medical examination, which must be conducted within three (3) working days upon the seafarer's return, it also poses the employer the implied obligation to conduct a meaningful and timely examination of the seafarer."[26] Thus, in view of such reciprocal obligation, between the positive assertion of the petitioner that he was able to comply with the 3-day obligation to report but it was the respondents who failed to refer him to a company-designated physician and the plain denial of the respondents, evidentiary rules provide that the former is generally entitled to more weight.[27] Nevertheless, the absence of a medical assessment issued by the company physician within three days from the arrival of petitioner would result only to the forfeiture of his sickness allowance and nothing more.[28] In fact, the law[29] that requires the 3-day mandatory period recognizes the right of a seafarer to seek a second medical opinion and the prerogative to consult a physician of his choice. Therefore, the provision should not be construed that it is only the company-designated physician who could assess the condition and declare the disability of seamen.[30] The provision does not serve as a limitation but rather a guarantee of protection to overseas workers.[31]

In view of the above disquisitions, this Court therefore affirms the compensability of petitioner's permanent disability. The US$60,000.00 (the equivalent of 120% of US$50,000.00) disability allowance is justified under Section 32 of the POEA Standard Employment Contract as petitioner suffered from permanent total disability. The grant of attorney's fees is likewise affirmed for being justified in accordance with Article 2208(2)[32] of

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26 *Career Philippines Shipmanagement, Inc., et al. v. Serna*, 700 Phil. 1, 15 (2012).

27 See, *id.*

28 See *Magsaysay Maritime Services, et al. v. Laurel,* 707 Phil. 210, 230 (2013).

29 Sec. 20 (B), Paragraph (3) of the POEA-SEC which reads, in part:

"Section 20 (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.

30 See *Magsaysay Maritime Services, et al. v. Laurel*, *supra* note 28.

31 *Id.*

32 Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

Code since petitioner was compelled to litigate to satisfy his claim for disability benefits.[33]

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated September 2, 2017 of petitioner Alfredo Mallari Magat is **GRANTED**. Consequently, the Decision dated October 25, 2016 and the Resolution dated July 5, 2017, both of the Court of Appeals in CA-G.R. SP No. 138327 are **REVERSED** and **SET ASIDE** and the Decision dated August 14, 2014 of the National Labor Relations Commission granting petitioner disability benefits in the amount of US$60,000.00 and ten percent (10%) thereof as attorney's fees, in Philippine peso at the time of payment, is **REINSTATED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

33 *PHILASIA Shipping Agency Corporation v. Tomacruz*, 692 Phil. 633, 651 (2012).

WE CONCUR:

ANTONIO T. CARPIO
Acting Chief Justice
Chairperson

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On wellness leave
ANDRES B. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Acting Chief Justice