



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**JEBSENS MARITIME, INC., SEA
 CHEFS CRUISES LTD./EFFEL T.
 SANTILLAN,**
 Petitioners,

G.R. No. 244098

Present:

PERALTA, *C.J.*, Chairperson,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, *JJ.*

-versus-

LORDELITO B. GUTIERREZ,
 Respondent.

Promulgated:

MAR 03 2021

X ----- X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated August 29, 2018 and Resolution³ dated January 14, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 149168 which reversed and set aside the Decision and Resolution of the National Labor Relations Commission (NLRC).

Facts

Lordelito B. Gutierrez (respondent) was hired on March 27, 2014 as Third Cook for the vessel *MV Mein Schiff I* by Jebsens Maritime, Inc.⁴ for its foreign principal, Sea Chefs Cruises Ltd. (collectively, petitioners). On June 19, 2014, while on board, respondent experienced severe pain on the right paralumbar area, accompanied by paresthesia on the lower right extremity,

¹ *Rollo*, pp. 3-31.

² *Id.* at 33-43; penned by Associate Justice Victoria Isabel A. Paredes with the concurrence of Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of the Court) and Associate Justice Germano Francisco D. Legaspi.

³ *Id.* at 45.

⁴ *Id.* at 34. Co-petitioner Effel T. Santillan is the President and General Manager of Jebsens Maritime, Inc., *id.* at 5.

and difficulty in movement. He consulted with the ship doctor and underwent magnetic resonance imaging (MRI) scan of the lumbosacral spine while the ship was docked in Kiel, Germany, on June 27, 2014. Thereafter, respondent was diagnosed with Disc Prolapse L4-L5 and medically repatriated on July 2, 2014.⁵

On July 4, 2014, respondent was examined by the company-designated physician at Shiphealth, Inc. On July 9, 2014, he was diagnosed with L4-L5 Herniated Nucleos Pulposus and was recommended to undergo 18 sessions of physical therapy which he completed on September 9, 2014. On the same day, respondent was given his Final Medical Report⁶ which diagnosed that his condition had become asymptomatic and declared that he was “FIT TO WORK FOR THE CONDITION REFERRED, CASE CLOSURE.”⁷

After receiving the fit to work diagnosis, respondent applied for re-engagement sometime in October 2014, but his application was denied by petitioners because he failed the pre-employment medical examination (PEME). The examining physician during the PEME declared that there was a “‘high probability of recurrence’ of [respondent’s] previous illness.”⁸ On November 7, 2014, respondent underwent an x-ray of the lumbar spine which showed a mild *dextroscoliosis* of the lumbar vertebrae.⁹

Proceedings before the Labor Arbiter (LA) and NLRC

Thus, respondent filed a complaint before the LA on November 28, 2014 for continuation of medical treatment, underpayment of sick leave pay, payment of sickness allowance, and attorney’s fees (First Case).¹⁰ The First Case was raffled to LA Jenneth B. Napiza (LA Napiza). In a Decision dated June 16, 2015, LA Napiza dismissed the First Case due to the absence of contrary medical findings from respondent’s personally appointed physician to refute the fit to work diagnosis of the company-designated physician.¹¹

On July 3, 2015, respondent filed a second complaint, this time for total permanent disability benefits, medical expenses, moral and exemplary damages, and attorney’s fees (Second Case).¹² While the First Case was pending, respondent had continued his medical treatment and sought the opinion of a personally appointed physician, Dr. Renato P. Runas (Dr. Runas). On January 29, 2015, Dr. Runas issued a Medical Evaluation Report¹³ finding

⁵ Id. at 34.

⁶ Id. at 168.

⁷ Id.

⁸ Id. at 35.

⁹ Id. at 34-35.

¹⁰ Id. at 35. Docketed as *Lordelito B. Gutierrez v. Jebsens Maritime, Inc./Sea Chefs Cruises Ltd./Effel T. Santillan*, Case No. (M) NCR-11-14609-14, id. at 135-136.

¹¹ Id. at 35, 60-61.

¹² Id. at 35. Docketed as *Lordelito B. Gutierrez v. Jebsens Maritime, Inc./Sea Chefs Cruises Ltd./Effel T. Santillan*, Case No. (M) NCR-07-07859-15, id. at 137-138.

¹³ Id. at 210-211.



that respondent was “permanently unfit for sea duty in whatever capacity with a [recommendation for] permanent disability.”¹⁴ The Second Case was raffled to LA Julia Cecily Coching-Sosito (LA Sosito). During the conference on July 23, 2015, the parties agreed to refer respondent’s condition to a third doctor.¹⁵

On August 5, 2015, petitioners filed a Motion to Dismiss on the ground of *res judicata*, arguing that the dismissal of the First Case barred respondent from claiming total and permanent disability benefits in the Second Case. LA Sosito denied the motion, holding that the complaint is not barred by *res judicata* as the issues in the First Case and Second Case are not identical.¹⁶

On January 4, 2016, LA Sosito directed the parties to submit the findings of a third doctor.¹⁷ Respondent submitted the Medical Evaluation Report¹⁸ dated January 29, 2016 of Dr. Jason Paul P. Santiago (Dr. Santiago) who opined that respondent was “presently impaired and might not be able to perform his duty as a Chief cook which involves carrying heavy food pan, cooking utensils, standing for long hours. Physical [t]herapy might lessen the pain whoever (*sic*) higher chance that it will come back again. Surgery might improved (*sic*) but will not guarantee a full recovery and he might not be able to go back to his present job. Lifestyle and work modification should be highly considered to prevent further aggravation of low back pain at (*sic*) prevent other serious complications.”¹⁹

Petitioners opposed the admission of the third doctor’s opinion for being irrelevant and inaccurate as it was issued one year and four months from the time that respondent was declared fit for work, and petitioners did not participate in choosing him as the third doctor. LA Sosito denied petitioners’ opposition and admitted the report of Dr. Santiago.²⁰

Thereafter, both parties filed their respective position papers and replies. Notably, petitioners admitted in their Position Paper²¹ that respondent’s injury or illness was work-related. They maintained, however, that respondent’s claim was barred by *res judicata* and that respondent was already declared fit to work by the company-designated physician. They also reiterated their opposition to the admission of the third doctor’s opinion.²²

On April 29, 2016, LA Sosito issued a Decision²³ in favor of respondent, finding that he had suffered a work-related illness which rendered

¹⁴ Id. at 211.

¹⁵ Id. at 35.

¹⁶ Id.

¹⁷ Id. at 36.

¹⁸ Id. at 221-222.

¹⁹ Id. at 222.

²⁰ Id. at 36.

²¹ Id. at 139-162.

²² Id. at 145-158.

²³ Id. at 47-55.



him totally and permanently disabled and unfit for sea duty. Petitioners were held solidarily liable to pay respondent total permanent disability benefits of US\$60,000.00 and attorney's fees of US\$6,000.00.²⁴

Petitioners appealed LA Sosito's Decision in the Second Case to the NLRC which reversed the Decision and dismissed the complaint on the ground of *res judicata*. The NLRC held that the First Case and Second Case, although praying for different reliefs, involved the same issue as to the validity of the fit to work certification of the company-designated physician. The NLRC held that LA Napiza had already sustained the company-designated physician's findings in the First Case as respondent failed to present the contrary opinion of a personally appointed physician before filing the complaint in the First Case. In initiating the Second Case, respondent sought to re-litigate the same issue.²⁵ The NLRC denied respondent's Motion for Reconsideration (MR) in its Resolution²⁶ dated November 15, 2016.

The CA Decision

Respondent elevated the case via Petition for *Certiorari* under Rule 65 before the CA, which ruled in his favor. In its Decision dated August 29, 2018, the CA overturned the findings of the NLRC, holding that the Second Case was not barred by the First Case as they had different causes of action, issues, and reliefs sought. The First Case was an action for payment of sickness allowance and continuation of medical treatment while the Second Case was an action for total and permanent disability benefits. The CA further ruled that the cause of action in the Second Case was not yet in existence at the time of filing of the complaint in the First Case. The CA reinstated LA Sosito's award of total and permanent disability benefits and attorney's fees.²⁷ Petitioners filed an MR which was denied by the CA in its Resolution dated January 14, 2019.²⁸

The Petition

Aggrieved, petitioners filed the instant Petition before the Court assailing the CA Decision and Resolution. Petitioners argue that all the elements of *res judicata* are present in the case. There is identity of parties, subject matter, issues, and causes of action. Respondent's claim for sickness allowance in the First Case and total permanent disability benefits in the Second Case arose from the same illness.²⁹

Even assuming that *res judicata* does not apply, petitioners argue that respondent is not entitled to total and permanent disability benefits because

²⁴ Id. at 55.

²⁵ Id. at 72-73.

²⁶ Id. at 76-83.

²⁷ Id. at 38-42.

²⁸ Id. at 45.

²⁹ Id. at 11-25.



the illness for which he was repatriated was already resolved and the company-designated physician had already declared him fit to work.³⁰

Petitioners also assail the findings of the third doctor. They maintain that while the parties had agreed to the appointment of a third doctor, it was respondent alone who secured the medical assessment of Dr. Santiago and petitioners had not agreed thereto. Thus, the findings of Dr. Santiago cannot be considered as a valid and binding third doctor opinion.³¹

Respondent filed his Comment³² asserting that the elements of *res judicata* are not existent in the instant case as the First Case and Second Case involved different causes of action. Respondent also maintains that he is entitled to total and permanent disability benefits as his personally appointed physician and the third doctor had declared him unfit to work as a seafarer. Respondent also avers that the award of attorney's fees was correct.³³

Issue

Whether the CA committed reversible error in reversing the NLRC Decision and Resolution.

The Court's Ruling

The Petition lacks merit.

Res judicata is not applicable

The literal interpretation of *res judicata* is "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment."³⁴ It is anchored on the principle that parties should not be allowed to re-litigate the same issue in multiple suits. Once a right or fact has been tried and established or an opportunity for trial has been provided to the parties, the final judgment of the court shall be conclusive as between the parties and their privies.³⁵

There are two concepts of *res judicata*, (1) bar by prior judgment, and (2) conclusiveness of judgment.³⁶ *Res judicata* as a bar by prior judgment applies when the following requisites are present:

1. The prior decision must be a final judgment or order;

³⁰ Id. at 17-18.

³¹ Id. at 18-22.

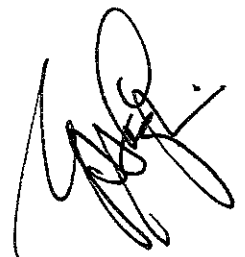
³² Id. at 87-109.

³³ Id. at 92-105.

³⁴ *Degayo v. Magbanua-Dinglasan*, G.R. No. 173148, April 6, 2015, 755 SCRA 1, 8.

³⁵ Id. at 8-9.

³⁶ *Agustin v. Spouses Delos Santos*, G.R. No. 168139, January 20, 2009, 576 SCRA 576.



2. The court rendering the same must have jurisdiction over the subject matter and over parties;
3. There must be identity of parties, subject matter, and causes of action between the two cases; and
4. It must be a judgment or order on the merits.³⁷

The CA correctly ruled that the Second Case is not barred by *res judicata* as the third element is lacking; the two cases are based on different causes of action. The present case is a claim for total and permanent disability benefits while the First Case was a claim for continuation of medical treatment, payment of sickness allowance, and underpayment of sick leave pay.

A cause of action is defined as an act or omission by which one party violates the right of another.³⁸ The elements that constitute a cause of action are: (1) the legal right of the plaintiff; (2) correlative obligation of the defendant to respect that legal right; and (3) an act or omission of the defendant that violates such right.³⁹

The employer has an obligation to provide medical treatment and sickness allowance under Section 20(A)(2) and (3)⁴⁰ of the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC). After the medical treatment, if the seafarer is found to be suffering from permanent total or partial disability due to the work-related injury or illness, the employer has an obligation to pay the seafarer disability benefits under Section 20(A)(6)⁴¹ of the POEA-SEC in accordance with the

³⁷ *Golez v. Abais*, G.R. No. 191376, January 8, 2020.

³⁸ RULES OF COURT, Rule 2, Sec. 2.

³⁹ *Subic Telecommunications Co., Inc. v. Subic Bay Metropolitan Authority*, G.R. No. 185159, October 12, 2009, 603 SCRA 470, 485; citations omitted.

⁴⁰ A. 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

2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated. However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

3. In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall not exceed 120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.

The seafarer shall be entitled to reimbursement of the cost of medicines prescribed by the company-designated physician. In case treatment of the seafarer is on an out-patient basis as determined by the company-designated physician, the company shall approve the appropriate mode of transportation and accommodation. The reasonable cost of actual traveling expenses and/or accommodation shall be paid subject to liquidation and submission of official receipts and/or proof of expenses.

X X X X (Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships, POEA Memorandum Circular No. 10, Series of 2010, October 26, 2010.)

⁴¹ A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

schedule of disability ratings under Section 32.⁴² In some cases, these benefits may be claimed together since they usually arise from the same injury or illness. In the instant case, respondent had a right to claim the two causes of action separately, even if they arose from the same illness.

It is important to note the particular sequence of events which led respondent to file two subsequent complaints before the LA. Respondent was medically repatriated on July 2, 2014 and immediately underwent medical treatment. The company-designated physician declared respondent fit to work on September 9, 2014. However, when respondent applied for re-engagement sometime in October 2014, his application was denied because he failed the PEME. At this point, respondent had received conflicting medical evaluations within the span of about one month; he was declared fit to work by the company-designated physician on September 9, 2014, but failed the PEME for re-deployment in October 2014. Thus, respondent requested for the continuation of his medical treatment. When petitioners denied his request, respondent was constrained to file the First Case for the continuation of his medical treatment, sickness allowance, and underpayment of sick leave pay. LA Napiza dismissed the First Case due to the absence of contrary medical findings from a personally appointed physician. No further appeal was taken therefrom and the dismissal of the First Case has since become final.

Pending resolution of the First Case, respondent had continued with his medical treatment at his own expense and was eventually diagnosed to be permanently unfit for sea duty by his personally appointed physician on January 29, 2015—this gave rise to a separate cause of action for total and permanent disability benefits.

A fundamental test to determine whether two suits relate to the same cause of action is whether the cause of action in the second case was already existing at the time of filing of the prior complaint.⁴³ At the time respondent filed the First Case, the cause of action for permanent and total disability benefits did not yet exist as the true nature and extent of respondent's condition and whether this was work-related was not yet known. This is precisely why respondent initially requested for the continuation of his medical treatment instead of immediately claiming disability compensation.

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

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of his Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted.

The disability shall be based solely on the disability gradings provided under Section 32 of this Contract, and shall not be measured or determined by the number of days a seafarer is under treatment or the number of days in which sickness allowance is paid.

x x x x

⁴² Sec. 32. *Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted.* x x x

⁴³ *Umale v. Canoga Park Development Corporation*, G.R. No. 167246, July 20, 2011, 654 SCRA 155, 162.

Thus, *res judicata* as a bar by prior judgment does not apply as the two cases are premised on different causes of action.

Res judicata under the second concept of conclusiveness of judgment likewise does not apply. The principle of conclusiveness of judgment dictates that when a competent court has issued a final decision on a particular fact or question which has been squarely put in issue, deliberated, and passed upon, the parties cannot raise the same issues or points in a later case even if based on a different cause of action.⁴⁴ Stated conversely, if the prior and the latter cases have the same parties but different causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely related thereto.⁴⁵

Conclusiveness of judgment does not bar the Second Case because the issue of whether respondent is entitled to total and permanent disability benefits was not raised and passed upon in the First Case. LA Napiza's Decision in the First Case is conclusive only as to the issue of respondent's non-entitlement to the continuation of medical treatment, sickness allowance, and underpayment of sick leave pay. Moreover, LA Napiza did not categorically rule on respondent's health condition but dismissed the complaint on the ground that respondent did not present contrary medical findings from a personally appointed physician.

Thus, the CA correctly ruled that *res judicata* does not apply. The dismissal of the First Case for continuation of medical treatment, sickness allowance, and underpayment of sick leave pay does not bar respondent's current claim for total and permanent disability benefits.

Respondent is entitled to total and permanent disability benefits

The Court also affirms the CA's ruling that respondent is entitled to total and permanent disability benefits as he suffered a work-related illness rendering him totally and permanently disabled and unfit to work as a seafarer/third cook.

Petitioners do not dispute that respondent's illness is work-related but they maintain that respondent is not entitled to total and permanent disability benefits because he was already declared fit to work by the company-designated physician.⁴⁶ However, under the POEA-SEC, the seafarer is not absolutely bound by the opinion of the company-designated physician. He has

⁴⁴ *Degayo v. Magbanua-Dinglasan*, supra note 34, at 11-12.

⁴⁵ *Agustin v. Spouses Delos Santos*, supra note 36, at 590.

⁴⁶ *Rollo*, pp. 149-156.



a right to seek a second medical opinion which respondent obtained in this case.⁴⁷

The company-designated physician issued a Final Medical Report which states:

Final Diagnosis:

- L4-L5 Herniated Nucleus Pulposus, right, asymptomatic
- s/p 3 sets of physical therapy (6 sessions each set)

Recommendations:

- FIT TO WORK FOR THE CONDITION REFERRED, CASE CLOSURE.⁴⁸

Dr. Runas, respondent's personally appointed physician, declared, to the contrary, that respondent was permanently unfit for sea duty in his Medical Evaluation Report, which declares:

At present, [respondent] is complaining of persistent low back discomfort. He is experiencing morning stiffness and pain [in] the lower back upon waking up. There is mild to moderate radicular symptom characterized as numbness of the right lower extremity and shooting pain particularly at night time and during prolonged standing. The low back discomfort worsens during prolonged standing and walking. **Physical examination showed the patient is ambulatory with slight limp on the right[.] Trunk motion is limited. Straight Leg Raising test is positive on the right side. Hypoesthesia is noted on the right lower extremity. MRI of the lumbosacral spine showed: multiple disc protrusions, right paracentral and lateral foraminal indenting the right nerve root at L5-S1; small broad-based ventral and bilateral at L3-4 and L4-5 with disc desiccation and slight spinal canal stenosis.**

Seaman Gutierrez is presently impaired due to chronic low back pain with right lower extremity sciatica. As a 3rd Cook, his job is very strenuous and demanding. He works strenuously and vigorously. He carries and lifts heavy pans and other cooking utensils. He also lifts and carries heavy provisions and other objects. He works in awkward position for long periods. Surgery may not fully address the chronic low back pain due to the presence of the other conditions as stated above. Physical therapy may improve the condition but will recur when subjected to undue stress at the back again. With his present impediment, he can no longer accomplish his tasks without experiencing severe low back pain. Lifestyle and work modification should be highly considered to prevent aggravation and more serious complications of the back problem secondary to disk herniation. He is no longer be (sic) allowed to return to his previous job. He is permanently unfit for sea duty in whatever capacity with a permanent disability.⁴⁹

⁴⁷ *Esposito v. Epsilon Maritime Services, Inc.*, G.R. No. 218167, November 7, 2018, 884 SCRA 629, 656-657.

⁴⁸ *Rollo*, p. 168; emphasis omitted.

⁴⁹ *Id.* at 210-211; emphasis and underscoring supplied.



Section 20(A)(3) of the POEA-SEC mandates that when there are conflicting findings by the company-designated physician and the seafarer's personally appointed physician, the parties may refer to a third doctor mutually agreed upon, whose decision shall be final and binding on both parties.

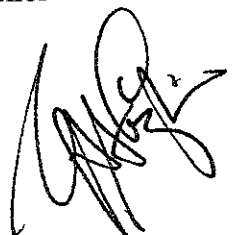
In view of this, the NLRC promulgated NLRC *En Banc* Resolution No. 08-14, which directs all Labor Arbiters, during mandatory conference, to give the parties a period of fifteen (15) days within which to secure the services of a third doctor and an additional period of thirty (30) days for the third doctor to submit his/her reassessment.⁵⁰

In the instant case, both parties agreed to refer respondent's condition to a third doctor during the conference before LA Sosito on July 23, 2015. The third doctor, Dr. Santiago issued a Medical Evaluation Report on January 29, 2016, with the following findings:

Presently patient Gutierrez is still complaining of persistent low back pain (PS 5-6/10) with weakness of 4/5 was also noted on right L5 and S1 myotome upon assessing the muscle strength with associated Radiculopathy shooting pain to over the right leg and decrease sensory over the right [L4-L5] and S1 dermatome aggravated by prolonged sitting, standing and walking. Repeat plain MRI Lumbosacral spine was done last January 19, 2016 showed L3-L4, L4-L5 and L5-S1 disc [desiccation]. L3-L4 Central posterior disc protrusion and annular fissure indenting the ventral thecal sac. L4-L5 Central and right paracentral disc protrusion indenting the ventral thecal sac and abutting the right L5 traversing nerve root. L5-S1 right paracentral disc protrusion abutting the right S1 traversing nerve root Present. The above MRI finding coincides with the present PE where in patient is ambulatory with slight limp on the right, limited trunk motion. Straight leg raising test is positive on the right side with decrease sensory over the right [L4-L5] and S1 dermatome.

Persistent and progressing low back pain experienced by patient Gutierrez with associated radiation to right lower extremities, which allegedly noted after the lifting incident while onboard. With the present physical examination, of limited trunk flexion, with slight tenderness at the paralumbar muscles. Positive straight leg raising at 40 degrees was also noted on right lower extremity. On neurologic examination, decrease sensory about 50% was noted on right [L4-L5] and S1 dermatomes. Weakness of 4/5 was also noted on right L5 and S1 myotome upon assessing the muscle strength. Which also correlated with the present MRI findings of chronic postero-central and right paracentral disc protrusion at L4-L5 level with indentation of the thecal sac and right L5 nerve root. **Seaman Gutierrez is presently impaired and might not be able to perform his duty as a Chief cook which involves carrying heavy food pan, cooking utensils, standing for long hours. Physical Therapy might lessen the pain whoever (sic) higher chance that it will come back again. Surgery might improved (sic) but will not guarantee a full recovery and he might not be able to go back to his present job. Lifestyle and work modification should be highly considered to prevent further**

⁵⁰ NLRC *En Banc* Resolution No. 08-14, Series of 2014, November 12, 2014.



aggravation of low back pain at (sic) prevent other serious complications.⁵¹

Thus, the third doctor's findings were consistent with the findings of respondent's personally appointed physician, that respondent's illness in the lumbar spine or lower back, rendered him unfit for sea duty and for his specific duties as Third Cook. Both Dr. Runas and Dr. Santiago opined that physical therapy and surgery may improve respondent's condition but do not guarantee full recovery. Notably, the findings of Dr. Runas and Dr. Santiago are also consistent with the PEME results which found that there was a high probability of recurrence of respondent's illness. Petitioners also do not deny that respondent was not re-hired after he failed the PEME. Dr. Santiago's and Dr. Runas' medical findings, taken with the fact that petitioners themselves did not hire and re-deploy respondent for his having failed the PEME, points to no other conclusion than that respondent is suffering from a work-related illness that rendered him unfit for sea duty and for which he is entitled to total and permanent disability benefits.

Petitioners attempt to discredit Dr. Santiago's valid and binding report by asserting that they did not consent, participate, or accept the medical assessment and it was respondent alone who obtained the same. As correctly held by the CA, petitioners' claim has no merit. Both parties had agreed to refer to a third doctor during the conference on July 23, 2015. Petitioners' refusal or failure to actively participate in the process of choosing the third doctor was a waiver of their right to do so, and cannot be used to challenge the third doctor's final and binding opinion.

Under the Schedule of Disability Allowances in Section 32(A) of the POEA-SEC, an illness classified as total and permanent disability shall be compensated with permanent disability benefits of US\$60,000.00.⁵² The Court also affirms the CA's award of attorney's fees and imposition of interest. Following Article 2208 of the Civil Code, attorney's fees equivalent to ten percent (10%) of the total monetary award may be granted in actions for recovery of wages of laborers and actions for indemnity under the employer's liability laws.⁵³

Consistent with the Court's pronouncement in *Nacar v. Gallery Frames*,⁵⁴ interest at the rate of six percent (6%) *per annum* is imposed on the total monetary award reckoned from the finality of judgment until full

⁵¹ *Rollo*, pp. 221-222; emphasis supplied.

⁵² Sec. 32. *Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted.*

x x x x

SCHEDULE OF DISABILITY ALLOWANCE			
IMPEDIMENT GRADE		IMPEDIMENT	
I	US\$50,000	X	120%

x x x x

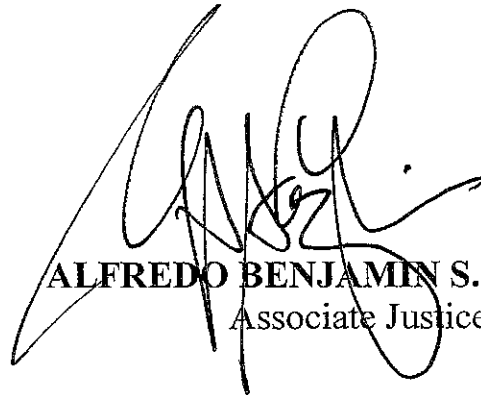
⁵³ *Pastrana v. Bahia Shipping Services*, G.R. No. 227419, June 10, 2020.

⁵⁴ G.R. No. 189871, August 13, 2013, 703 SCRA 439.

satisfaction.⁵⁵ The liability of petitioners shall be solidary, as provided under Section 10⁵⁶ of Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, as amended, which mandates that the principal/employer, recruitment/placement agency, and its corporate officers and directors in case of corporations, shall be solidarily liable for money claims arising out of employer-employee relationship with overseas Filipino workers.

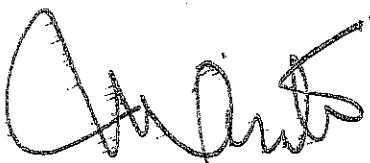
WHEREFORE, premises considered, the Petition is **DENIED**. The Court of Appeals' Decision dated August 29, 2018 and Resolution dated January 14, 2019 in CA-G.R. SP No. 149168 are **AFFIRMED with MODIFICATION**. The total monetary awards shall earn interest of six percent (6%) *per annum* from the date of finality of this Decision until full payment.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson

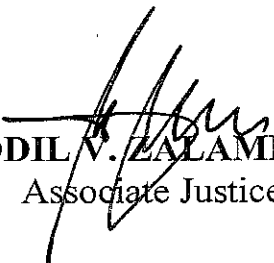
⁵⁵ Id. at 457-459.

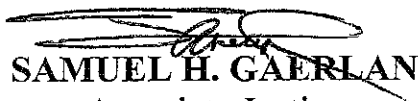
⁵⁶ Sec. 10. *Money Claims*. – x x x

The liability of the principal/employer and the recruitment/placement agency for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

x x x x (As amended by RA 10022 “An Act Amending Republic Act No. 8042, Otherwise Known as The Migrant Workers’ and Overseas Filipinos Act of 1995, as Amended, Further Improving The Standard of Protection and Promotion of The Welfare of Migrant Workers, Their Families and Overseas Filipinos In Distress, and For Other Purposes,” March 8, 2010.)



ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.


DIOSDADO M. PERALTA
Chief Justice

