Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

WERO JOCOSOL GRONA, Petitioner,	**G.R. No. 247532**
	Present:
- versus -	LEONEN, *J.*, *Chairperson*, CARANDANG, ZALAMEDA, ROSARIO, DIMAAMPAO, *JJ.*
SINGA SHIP MANAGEMENT PHILS. INC., and/or CUNARD and/or MS. NORMA L. DAVID Respondents.	Promulgated: October 6, 2021 MisOccBath

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D E C I S I O N

CARANDANG, *J.*:

This Court resolves a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated November 28, 2018 and the Resolution[3] dated May 20, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 149861. The CA affirmed the findings of the National Labor Relations Commission (NLRC) in its Decision[4] dated October 28, 2016 that petitioner Wero Jocosol Grona (Grona) is not entitled to disability benefits because ruptured *diverticulitis* is not a work-related illness. The NLRC reversed the Decision[5] dated August 24, 2016 of the Labor Arbiter (LA) in NLRC Case

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1 *Rollo*, pp. 3-31.

2 Penned by Associate Justice Rafael Antonio M. Santos, with the concurrence of Associate Justices Sesinando Villon and Edwin D. Sorongon; id. at 37-57.

3 Id. at 75-76.

4 Penned by Commissioner Joseph Gerard E. Mabilog, with the concurrence of Commissioners Isabel G. Panganiban-Ortiguerra and Nieves E. Vivar-De Castro; id. at 428-448.

5 Penned by Labor Arbiter Thomas T. Que, Jr.; id. at 311-329.

No. (M) NCR – 03 – 03220 – 16, which granted petitioner's claim for disability benefits, reimbursement of medical expenses, and attorney's fees.

Facts of the Case

On May 23, 2014, respondents Singa Ship Management Phils. Inc (Singa Ship) and CUNARD (collectively, respondents), as agent and foreign principal, respectively, employed petitioner Grona who was 52 years old[6] at that time.[7]

The following are the terms and conditions of Grona's employment:[8]

Duration of Contract:	9 months
Position:	Laundryman
Basic Monthly Salary:	USD 361.00
Hours of Work:	48 hours per week
Overtime:	USD 169.00 GOT (105 HRS) include OT work performed Sundays and Holidays; USD 2.50 OT Rate/HR for work performed in addition to GOT
Vacation leave with pay:	USD 73.00 Leave Pay (6 days per month)
Point of hire:	Manila Philippines
Collective Bargaining Agreement, if any:	

Before Grona was deployed, he underwent a pre-employment medical examination (PEME) where he was declared fit to work. Grona departed the Philippines on June 7, 2014 and boarded the cruise ship M/V Queen Elizabeth at the Port of Southampton, United Kingdom on June 8, 2014. His duty and responsibilities as a laundryman consist of washing enormous quantities of dirty linens, curtains and rugs using chlorine and other bleaching agents.[9]

About eight months into the contract, or on February 6, 2015, Grona had fever and flu-like symptoms. He was initially treated at the clinic of M/V Queen Elizabeth. When the symptoms persisted, he was referred to Amerimed Hospital in Mexico. He was assessed to have abdominal cavity infection. While confined at the Amerimed Hospital, Grona was completely unconscious.[10] Through a letter, respondents invited Grona's wife to be at his side for the scheduled medical procedures.[11]

On February 9, 2015, Grona underwent laparoscopic surgery of the pancreas. Succeeding operations were made to clean the remaining infection. Tracheotomy was also conducted to aid his respiration since it was difficult

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6 Id. at 211.
7 Id. at 430.
8 Id. at 211.
9 Id. at 312-313, 430.
10 Id. at 314, 430.
11 Id. at 146.

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for him to breathe through the nose. Thereafter, he was discharged from Amerimed Hospital and was scheduled for repatriation.[12]

While in his flight from Mexico to the Philippines, Grona had a cardiac arrest forcing the plane to have an emergency landing in San Diego, California. He was confined on March 5, 2015 at the St. John Hospital in San Diego, California for observation. A week after, or on March 12, 2015, Grona was repatriated to the Philippines.[13]

Upon arrival, Grona was referred to the company-designated physicians at the Marine Medical Services (MMS). Assistant Medical Coordinator Dr. Mylene Cruz-Balbon, M.D. issued a medical report dated March 14, 2014, which reads:

> Singa Ship Management Phils., Inc.
> 21st Floor, BDO Plaza
> 8737 Paseo De Roxas
> Makati City, 1209 Philippines
>
> Attn: Mr. Rene Riel
> Crewing Manager
>
> Re: Laundryman Wero J. Grona
> MT Queen Elizabeth
> Singa Ship Management Phils., Inc.
>
> This is a follow-up report on Laundryman Wero J. Grona who was initially seen and admitted here at Marine Medical Services on March 12, 2015 and was diagnosed to have To Consider Ruptured Diverticulitis; S/P Colon Surgery; S/P Tracheostomy; S/P Cardiac Arrest.
>
> He is under the care of a team of specialist – Neurologist, Surgeon, Urologist, Physiatrist, and Cardiologist.
>
> Laboratory tests showed normal sodium, magnesium, Kidney Function Test, SGPT, SGOT, Careino ombryonic antigen, protime, total protein, decreased calcium, potassium, red blood cells, hemoglobin, hematocrit and albumin and elevated alkaline phosphatase.
>
> Cardiac markers (D-dimer, NT pro-BNP) are both elevated which may indicate the presence of cardiac dysfunction as patient had 2 previous cardiopulmonary arrest during his admission abroad.
>
> He also underwent CT Scan of the abdomen for further evaluation.
>
> He had undergone Debridement of the Wound Dehiscence, Multiple Ileostomies (Right Upper Quadrant,

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12 Id. at 430.

13 Id.

> Right Lower Quadrant, Right Paraumbilical Region, Left Paraumbilical Region), Gastronomy Tube; Enteroeutanous Fistula.
>
> He is being given medications and has started rehabilitation for conditioning exercises.
>
> We will keep you posted.[14]

From March 18, 2015 until May 14, 2015, MMS issued seven other medical reports stating the treatments given to Grona for his complete recovery.[15] On June 25, 2015, laparoscopic surgery specialist Dr. Richard P. Olalia (Dr. Olalia) issued a medical note to MMS, to wit:

> Dear Dr. Lim,
>
> Re: Mr. Wero J. Grona
>
> Regarding the case of patient Mr. Weno Grona
>
> S/P Exploratory laparotomy with Multiple Ileostomy, End Colostomy done last February 6, 2015 in Mexico. He was re-admitted several times for various medical problems such as electrolyte imbalance, Acute Renal Failure and management of wound dehiscence.
>
> If patient is entitled to disability, his suggested disability grading is Grade 7 – moderate residual or disorder.
>
> Thank you.[16] (Underscoring in the original)

On July 8, 2015, MMS Assistant Medical Director Dr. Karen Frances Hao-Quan, M.D. issued a medical report concluding that Grona's illness is not work-related.[17]

Grona claimed that respondents advised him to report to Atty. Razelle España (Atty. España) on July 16, 2015. The latter was not in her office when Grona went to the clinic. However, Atty. España's assistant informed him that respondents are willing to give US$5,000.00 as humanitarian consideration even if his illness is not work-related. Hence, Grona consulted Dr. Joven Negos (Dr. Negos) for his second opinion.[18]

Dr. Negos issued the following medical certificates:

> **Date: August 1, 2015**
>
> DIAGNOSIS:

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14 Id. at 220.
15 Id. at 431-435.
16 Id. at 213.
17 Id. at 214.
18 Id. at 43, 316.

Dehiscence of Laparascopic Coliostomy & Enteroeutanous Fistula S/P Dehiscence of S/P Colon Surgery.

MEDICATIONS:
Pls. secure copy of MED. Record as referral service for all inquiry

HISTORY: Refer to Medical History Attached.

PHYSICAL EXAMINATIONS:
Pls. refer to copies of P.E. exam. in Medical Record.

HOSPITAL COURSE:
Pls. refer to copy of Confinement Record Attached.

DISCHARGE MEDICATIONS:
SAME AS ABOVE.

CONDITION ON DISCHARGE:
Improved but not totally healed.

RECOMMENDATION:
Sec. 32 Schedule of Disability. Under Abdomen Item # 3. SEVERE RESIDUALS of Impairment of Intra-Abdominal Organs which requires regular aid and attendance that will unable worker to seek any gainful employment – **Grade 1.**

Good to patient to retire from service and cannot return to sea service as a seaman.[19] (Emphasis supplied.)

Date: August 14, 2015

To Whom It May Concern:

This is to certify that infection in the abdominal cavity like the case of Grona Wero can be Taken From Dietary Provisions Esp. Food Provisions on board ship, wherein mostly High in Fat (cholesterol) while they are serving or working on board ship. Practically True Regarding all foods Esp. Desserts. **I considered this as work related illness.**[20] (Emphasis supplied)

Insisting on his physician's second opinion, Grona wrote a letter dated August 5, 2015 to respondents demanding the payment of total and permanent disability benefits.[21] Respondents increased their offer of humanitarian consideration to US$7,500.00. Grona reiterated his claim in another letter[22] dated August 17, 2015, to no avail.

On January 21, 2016, Dr. Olalia advised Grona to prepare for the removal of his colostomy tube that will cost around ₱600,000.00. According to Dr. Olalia who is one of the company-designated physicians in MMS, the

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19 Id. at 215-216.
20 Id. at. 217.
21 Id. at 154-155.
22 Id. at 156-157.

cost for the said procedure will not be shouldered by the respondents. This prompted Grona, through his counsel, to send a demand letter to respondents on January 25, 2016.[23]

Respondents denied Grona's claim on February 17, 2016. They maintained their position that Grona is not entitled to permanent and total disability benefits because the long list of his ailments that are all not work-related, citing the July 8, 2015 medical certificate that "[*d*]*iverticulitis* is an inflammation of a diverticula which are small mucosal herniations protruding through the intenstinal layers which appears to be associated with low fiber diet, constipation, and obesity. **The condition is not work-related.**"[24]

On March 15, 2016, Grona filed a complaint for total and permanent disability benefits, reimbursement of medical and hospital expenses, moral and exemplary damages and attorney's fees against respondents.[25]

During mandatory conference, the LA ordered Grona and respondents to agree on a third doctor.[26]

Grona consulted Dr. Teresita Andal-Gamutan (Dr. Andal-Gamutan), a doctor of internal medicine – gastroenterology and digestive endoscopy. Dr. Andal-Gamutan issued on June 3, 2016 a medical certificate stating that Grona has "severe residuals of impairment of intra-abdominal organ which require regular aid and attendance that will unable him to seek any gainful employment."[27] The same medical certificate was used by Grona to claim his partial disability benefits from the Social Security System.[28]

Nonetheless, respondents refused to acknowledge Dr. Andal-Gamutan's assessment because their counsel was not present when it was done. The LA, thus, noted that the parties "appear to have failed to submit to a third doctor due to miscommunication."[29]

Ruling of the Labor Arbiter

In a Decision[30] dated August 24, 2016, the Labor Arbiter granted Grona's claim as follows:

> **WHEREFORE,** premises considered, judgment is hereby rendered finding respondents **SINGA SHIP MANAGEMENT PHILS., INC., AND/OR CUNARD, AND/OR MS. NORMA L. DAVID** jointly and severally liable to pay complainant **WERO JOCOSOL GRONA** partial disability benefits in the amount of **TWENTY**

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23 Id. at 159 -161.
24 Id. at 214. Emphasis supplied.
25 Id. at 38.
26 Id. at 320.
27 Id. at 181.
28 Id. at 179-180.
29 Id. at 45.
30 Supra note 5.

THOUSAND NINE HUNDRED US DOLLARS (US$ 20,900.00), or its peso equivalent at the time of payment; medical expenses in the total amount of **TEN THOUSAND SIX HUNDRED SEVENTEEN PESOS (PHP 10,617.00);** plus ten (10%) percent thereof as and by way of attorney's fees.

All other claims are dismissed for lack of merit.

SO ORDERED.[31] (Emphasis in the original)

The LA noted that prior to being employed, Grona was found fit to work and respondents did not contest this fact. Grona incurred his illness while he was on board the vessel and the company-designated physician issued a disability grade for moderate or residual disorder of Grona's illness, or Grade 7. The LA explained that the company-designated physician would not have issued such assessment if Grona's illness was not work-related. In addition, respondents failed to dispute that Grona's diet while on board was high in cholesterol, which is a cause for the development of his illness. The LA cited the case of *Seagull Shipmanagement & Trans Inc. v. NLRC*[32] wherein the Court held that when the seafarer contracted his illness on board the vessel, it is presumed that the illness is work-related.

As regards Grona's disability grading, the LA upheld the evaluation made by the company-designated physicians in MMS since they treated and regularly monitored Grona, thus, in the best position to render an accurate finding of his medical condition. In contrast, Grona's personal physician, Dr. Negos, made his assessment five months after the patient's repatriation and two months after Dr. Olalia gave the Grade 7 assessment. Dr. Negos also based his evaluation on the previous examinations conducted on Grona and did not conduct any confirmatory laboratory examination.

The LA ruled that respondents are liable for the medical expenses incurred by Grona that are supported by receipts. Grona is also entitled to attorney's fees pursuant to Article 2208 of the Civil Code of the Philippines. However, his claim for damages cannot be granted because he failed to establish by clear and convincing evidence that respondents acted in bad faith or fraud or in a manner that is contrary to morals, good customs, or public policy.

Respondents appealed[33] to the NLRC.

Ruling of the National Labor Relations Commission

On appeal, the NLRC issued a Decision[34] dated October 28, 2016 reversing the ruling of the LA, to wit:

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31 *Rollo*, p. 329.
32 388 Phil. 906 (2000).
33 *Rollo*, pp. 391-408.
34 Supra note 4.

> **WHEREFORE,** the respondents' appeal is **GRANTED.** The assailed Decision of Labor Arbiter Thomas T. Que dated August 24, 2016 is hereby **REVERSED and SET ASIDE,** and a new one is entered dismissing the instant complaint for lack of merit.
>
> **SO ORDERED.**[35] (Emphasis in the original)

The NLRC found that Grona failed to prove the causal connection between his illness and nature of work, such that its conditions increased the risk of contracting the disease while he was on board the vessel. Specifically, Grona did not present evidence on the following: (1) that he was exposed daily to bacteria, virus, and infection in his line of work; (2) that he was subject to chlorine poisoning; (3) that his work area was poorly ventilated; (4) that he was provided an imbalanced diet while on board the vessel; and (5) that he was not given sufficient time to rest. Further, the NLRC noted that *diverticulitis* is mainly a condition of older people that occurs when one or more pouches becomes inflamed or infected.[36]

The NLRC also held that the diagnosis made by the company-designated physicians should prevail over that of Dr. Negos, Grona's personal physician. Dr. Negos only physically examined Grona and did not conduct any diagnostic procedures and tests. He simply relied on Grona's previous medical records in issuing his medical certificate. Likewise, there is no showing that Dr. Negos has specialty in the field of surgery. With respect to Dr. Negos' finding that Grona's infection in his abdominal cavity was most likely caused by his dietary provisions, especially food on board that are mostly high in fat, the NLRC cited *Jebsens Maritime, Inc. v. Babol*[37] wherein the Court noted the minimum standards governing food and catering on board ocean-going vessels, as provided in the 2006 Maritime Labor Convention. In this case, according to the NLRC, Grona was on board a cruise ship that has considerable amount of food supplies for cooking meals in various restaurants, buffets, room service, bars, and lounges. Cruise ships, like M/V Queen Elizabeth, stockpile food supplies for a sudden spike in demand as standard practice. The medical certificate issued by Dr. Andal-Gamutan, on the other hand, lacks substantiation and corroboration thru diagnostic tests or procedures conducted on Grona.[38]

Finally, the NLRC ruled that Grona is not entitled to reimbursement of medical expenses, moral and exemplary damages, and attorney's fees because respondents gave medical assistance to Grona while he was undergoing treatment with the company-designated physicians.[39]

Grona filed a Motion for Reconsideration, but it was denied by the NLRC in its Resolution[40] dated December 29, 2016.

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35 *Rollo*, p. 447.
36 Id. at 441-444.
37 722 Phil. 828 (2013).
38 *Rollo*, pp. 444-446.
39 Id. at 446-447.
40 Id. at 492-493.

Ruling of the Court of Appeals

Grona filed a Petition for *Certiorari* before the CA. In a Decision[41] dated November 28, 2018, the CA denied Grona's Petition.

The CA observed that the company-designated physicians diagnosed Grona with *diverticulitis.* He also had dehiscence of laparoscopic, colostomy, and enterocutaneous fistula. After numerous physical and laboratory examinations as well as physical therapy, the company-designated physicians concluded that Grona's condition is not work-related. The CA ruled that these findings of the company-designated physicians constitute a full, complete, and categorical medical assessment on Grona's illness and successfully refutes the presumption of work-relation under Section 20(A)(4) of the 2010 Philippine Overseas Employment Agency – Standard Employment Contract (2010 POEA-SEC). Also, there is no evidence that the findings of the company-designated physicians were biased in favor of respondents.[42]

Grona did not present evidence that his illness was work-related or compensable. No medical finding was presented to negate the company-designated physicians' finding and he did not prove that the work conditions of a laundryman had any connection to his diet, constipation, or obesity. Grona also failed to prove that exposure to chemicals like chlorine and detergents had any connection to his illness.[43]

The CA agreed with the NLRC in disregarding Dr. Negos' conclusion that the food provisions on board the cruise ship are usually high in fat, thus, making Grona's illness work-related. Under the 2006 Maritime Labor Convention signed and ratified by the Philippines and Bermuda, the place of business of the owner of M/V Queen Elizabeth, there are minimum standards governing food and catering on board a vessel. Meanwhile, Grona did not present any proof of the kind of food that was provided to him in M/V Queen Elizabeth. The assessment made by Dr. Negos is also not based on medical tests and procedures. Furthermore, the CA did not give credence to Dr. Andal-Gamutan's assessment because the same was sought solely by Grona, without the consent of the respondents.[44]

Lastly, the CA agreed with the NLRC that Grona is not entitled to his monetary claims because respondents provided him medical assistance while he was under the care and supervision of the company-designated physicians. The Motion for Reconsideration filed by Grona was also denied by the CA in its Resolution[45] dated May 20, 2019.[46]

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41 Supra note 2.
42 *Rollo*, p. 50.
43 Id. at 50-52.
44 Id. at 52-55.
45 Supra note 3.
46 *Rollo*, pp. 55-56.

Proceedings Before This Court

Petitioner's arguments

Undaunted, Grona filed the present Petition for Review on *Certiorari* before this Court alleging that the CA committed serious errors of law in upholding the Decision of the NLRC.

First, Grona maintains that Section 32 of the 2010 POEA-SEC includes exposure to chlorine as an occupational disease. As such, it is disputably presumed that his illness is work-related and that the 2006 Maritime Labor Convention cannot be the sole determinant of the seafarer's claim. *Second*, The petitioner pointed out that there is no definitive assessment issued within the 120/240-day period since the company-designated physician, Dr. Olalia, used the term "if" in his recommendation that Grona's disability is Grade 7. Without a final and definitive assessment, he is entitled to total and permanent disability benefits. *Third*, Grona claims that he merely exercised his right when he sought Dr. Negos for a second opinion. Also, Dr. Andal-Gamutan's finding as a third doctor must be binding upon the respondents given that the same was recognized by the LA when it suspended the proceedings pending such assessment.[47]

Respondents' arguments

In their Comment,[48] respondents contend that Grona's *diverticulitis* is a condition only acquired through diet, constipation and obesity that cannot be deemed work-related. It is also the company-designated physicians who have the authority to determine the seafarer's fitness and/or disability grading pursuant to the provisions of the 2010 POEA-SEC. Finally, respondents argue that Grona failed to comply with the dispute resolution procedure required under the 2010 POEA-SEC when he failed to consult a third doctor agreed upon by both parties.

Issue

The principal issue for resolution is whether Grona's *diverticulitis* is work-related and compensable, thereby entitling him to disability benefits.

Ruling of the Court

The petition has merit.

An overseas seafarer who sustains an injury or contracts an illness in relation to the conduct of his work may be entitled to disability benefits, which may be temporary total disability, permanent total disability, or permanent total disability.[49] Articles 197 to 199 of the Labor Code, the Amended Rules

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47 Id. at 15-31.

48 Id. at 580-801.

49 *Rodelas v. MST Marine Services (Phils.)*, G.R. No. 244423, November 4, 2020.

on Employee Compensation, the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC), and the Collective Bargaining Agreement if any, provide the guidelines for payment of disability benefits.[50] The law, the employment contract and the medical findings, thus, govern the entitlement of an overseas seafarer to disability benefits.

The POEA-SEC provides its own system of determining disability compensation that approximates the benefits provided under the Philippine law. It embodies the basic minimum standards that must be incorporated in the employment contract between the seafarer and his employer. Grona's employment contract with respondents was executed on May 23, 2014 and is covered by the 2010 POEA-SEC.[51]

Work-relation and compensability

Respondents assert that Grona is not entitled to any disability compensation as his illness is neither work-related, nor work-aggravated, to wit:

> As to the claim that you have forwarded us, we take this opportunity to remind you that the primary reason why [Grona] no longer received any medical or financial assistance from [respondents] is that his various illnesses are not compensable. The diagnosis was made by Dr. Lim of [MMS] which consists of a long list of ailments as follows:
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> > To Consider Ruptured *Diverticulitis*; S/P Exploratory Laparotomy, End Colostomy, Gastrostomy and Tracheostomy Tube Insertion S/P Cardiac Arrest; S/P Debridement of Wound Dehiscense and Multiple Ileostomies, Gastrostomy and Enterocutaneous Fistula; S/P Removal of Tracheostomy; S/P Percutaneous Endoscopic Gastrostomy Removal; Benign Prostate Hyperplasia; ... Hypertension; Acute Respiratory Failure – Recovered; Deconditioning Syndrome; Peroneal Neuropathy, Left; Acute Kidney Injury Secondary to Sepsis – Resolved.
>
> **As we have properly informed you and [Grona], this long list of ailments were all declared to be not work-related by Dr. Lim and we stand by this in the absence of any competent contrary opinion.** x x x[52] (Emphasis supplied)

However, respondents failed to recognize that while not specifically listed as an occupational disease, *diverticulitis*, nonetheless falls under the

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50 *Tamin v. Magsaysay Maritime Corporation*, 794 Phil. 286, 304-305 (2016).

51 *See* POEA Memorandum Circular No. 10, Series of 2010, dated October 26, 2010.

52 *Rollo*, p. 176

category "Abdomen - Severe residuals of impairment of **intra-abdominal organs** which requires regular aid and attendance that will unable worker to seek any gainful employment," which is classified as Grade 1 disability under Section 32[53] of the 2010 POEA-SEC. Common sense dictates that the residuals of the impairment of Grona's intra-abdominal organs are *severe.* In fact, the respondents recognized such severity when it enumerated, as cited above, the long list of ailments and the numerous procedures that Grona underwent after he was assessed with infection of the abdominal cavity in Mexico and eventually diagnosed with *diverticulitis* upon repatriation in the Philippines.

In addition, Section 20(A)(4) of the 2010 POEA-SEC provides for a disputable presumption of work-relation of illnesses not listed under Section 32 thereof. The Court discussed this disputable presumption in the case of *Ventis Maritime Corporation v. Salenga*,[54] *viz.*:

> The disputable presumption of work-relatedness provided in paragraph 4 above arises only if or when the seafarer suffers from an illness or injury during the term of the contract and the resulting disability is not listed in Section 32 of the POEA-SEC. That paragraph 4 above provides for a disputable presumption because the injury or illness is suffered while working at the vessel. Thus, or stated differently, it is only when the illness or injury manifests itself during the voyage and the resulting disability is not listed in Section 32 of the POEA-SEC will the disputable presumption kick in. This is a reasonable reading inasmuch as, at the time the illness or injury manifests itself, the seafarer is in the vessel, that is, under the direct supervision and control of the employer, through the ship captain.[55]

In the case of Grona, the disputable presumption applies. Since he suffered an illness during the course of his employment with respondents, this gives rise to the presumption that his illness is work-related.

Note that the disputable presumption of work-relation under Section 20(A)(4) favors the seafarer. When the seafarer's illness or injury is suffered during the term of the contract, as in this case of Grona, the seafarer need not further prove that his work conditions caused or at least increased the risk of illness or injury for the presumption to apply. The statutory presumption stands unless refuted by the employer company. In effect, the seafarer will only be burdened to prove the work-relation when the employer overcomes the presumption.

In turn, the employer can only overcome this presumption of work-relation if there is a sufficient basis to support the assessment that the seafarer's illness was not work-related. The mere finding that the illness is not

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53 Schedule of Disability or Impediment for Injuries Suffered and Diseases Including Occupational Diseases or Illness Contracted

54 G.R. No. 238578, June 8, 2020.

55 Id.

work-related is not automatically a valid medical assessment. This Court has previously disregarded the findings of company-designated physicians for being incomplete, doubtful, clearly biased in favor of an employer, or for lack of finality.[56] In *Monana v. MEC Global Shipmanagement and Manning Corporation*,[57] this Court further stressed the overriding consideration that there must be sufficient basis to support the assessment:

> Regardless of who the doctor is and his or her relation to the parties, the overriding consideration by both the Labor Arbiter and the National Labor Relations Commission should be that **the medical conclusions are based on (a) the symptoms and findings collated with medically acceptable diagnostic tools and methods, (b) reasonable professional inferences anchored on prevailing scientific findings expected to be known to the physician given his or her level of expertise, and (c) the submitted medical findings or synopsis, supported by plain English annotations that will allow the Labor Arbiter and the National Labor Relations Commission to make the proper evaluation**. x x x[58] (Emphasis supplied)

Here, the records do not show that respondents complied with the requirements of a sufficient assessment.

The respondents concluded that Grona's illness is not work-related in this wise:

> This is with regard to your query regarding the case of Laundryman Wero J. Grona who was initially seen and admitted here at Marine Medical Services on March 12, 2015 and was diagnosed to have To Consider Ruptured *Diverticulitis*; S/P Exploratory Laparotomy, End Colostomy, Gastrostomy and Tracheostomy Tube Insertion S/P Cardiac Arrest; S/P Debridement of Wound Dehiscense and Multiple Ileostomies, Gastrostomy and Enterocutaneous Fistula; S/P Removal of Tracheostomy; S/P Percutaneous Endoscopic Gastrostomy Removal; Benign Prostate Hyperplasia; ... Hypertension; Acute Respiratory Failure – Recovered; Deconditioning Syndrome; Peroneal Neuropathy, Left; Acute Kidney Injury Secondary to Sepsis – Resolved.
>
> There is note of healing midline incision on the abdominal area.
>
> There is note of granuloma on the incision site.
>
> Patient claims to be voiding freely.
>
> The colostomy was noted to be in place.

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56 *Orient Hope Agencies, Inc. v. Jara*, 832 Phil. 380, 400-401 (2018).
57 746 Phil. 736 (2014).
58 Id. at 752-753.

> **Diverticulitis is an inflammation of a diverticula which are small mucosal herniations protruding through the intestinal layers which appears to be associated with low fiber diet, constipation and obesity. Condition is not work-related.**[59] (Emphasis supplied)

The medical assessment merely defined *diverticulitis*. It failed to provide for a reasonable professional inference since nowhere was it explained how Grona contracted *diverticulitis* in the first place. While it is clear that numerous procedures were conducted, the respondents did not present the result of any diagnostic tools and methods showing that Grona was exposed - and without any relation to his work as a laundryman – to the causes of *diverticulitis* as enumerated by the company-designated physicians, *i.e.*, low fiber diet, constipation and obesity.

Interestingly, the company-designated physicians in MMS contradicted themselves when Dr. Olalia issued a medical certificate[60] on May 10, 2016 stating that *diverticulitis* refers to inflammation associated with a diverticulosis, which cannot be acquired from dietary provisions. With these contradicting statements of the respondents, through their company-designated physicians, the Court cannot rule that there was a sufficient medical assessment of non-work relation. Consequently, respondents failed to overturn the presumption of work-relation in favor of Grona.

The argument that Grona did not prove the causal connection between his illness and nature of work is misplaced.

The general conditions enumerated under Section 32-A of the 2010 POEA-SEC are used to prove work-relation only when the illness is suffered after the term of the contract. In other words, regardless if the illness or injury is listed or not under the POEA-SEC, Section 32-A provides for the following general conditions that should be used as guidelines to prove the causal relation between a seafarer's work and his/her illness or injury suffered after the term of contract:

> (1) the seafarer's work must involve the risks described 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; and
> (4) there was no notorious negligence on the part of the seafarer.[61]

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59 *Rollo*, p. 178.
60 Id. at 234.
61 Section 32-A, 2010 POEA-SEC

As regards listed occupational illnesses or injury, the seafarer shall also satisfy the specific conditions of the illness or injury under the POEA-SEC and secure a medical assessment with a disability grade following the schedule under Section 32 of the POEA-SEC.[62]

To reiterate, these general conditions under Section 32-A are not applicable in the present case of Grona because he suffered his illness during the term of the contract.

With Grona's illness settled as work-related, it follows that he is entitled to compensation and benefits provided under Section 20(A) of the 2010 POEA-SEC.

Final definitive medical assessment and period of entitlement for disability benefits

Albeit already concluded that Grona is entitled to Grade 1 Disability Grading equivalent to total and permanent disability, the Court deems necessary to discuss a few important points regarding the period of entitlement to disability benefits.

When a seafarer suffers an illness during the term of his contract, the employer is obliged to continue to pay the seafarer's wages, and to cover the cost of treatment and medical repatriation, if needed. After medical repatriation, the seafarer has the duty to report to the company-designated physician within three days upon his return. The employer shall then pay sickness and allowance while the seafarer is being treated. And thereafter, the dispute resolution mechanism with regard to the medical assessments of the company-designated, seafarer-appointed, and independent and third doctor, shall apply.[63]

As regards compensability of a work-related injury or illness and in order for the aforementioned dispute resolution mechanism to work effectively, the company-designated physician's medical assessment required under Section 20(A) of the 2010 POEA-SEC must be final and definitive as to the seafarer's fitness to work or degree of disability and must be issued within a period of 120 days or 240 days, as the circumstances may warrant. During this 120-days or 240-days extended period, the seafarer is entitled to receive sickness allowance and obliged to report to the company-designated physician.

In *Sunit v. OSM Maritime Services, Inc.*,[64] the Court explained that a final and definitive disability assessment must necessarily reflect the true extent of the sickness or injuries of the seafarer *and* his or her capacity to resume work as such. Without a final and definitive medical assessment from the company-designated physician within the 120-days or 240-day extended

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62 Supra note 46.
63 Id.
64 806 Phil. 505 (2017)

period, the law steps in to consider the seafarer's disability as total and permanent.[65]

Here, the respondents had until July 10, 2015, or 120 days from Grona's repatriation on March 12, 2015, to issue a final and definitive disability assessment. Accordingly, the company-designated physicians issued a medical certificate on July 8, 2015 stating that d*iverticulitis* is not work-related. As discussed above, such medical assessment of non-work relation is not sufficient. To recall, the assessment is not sufficient because: (1) it did not provide any basis for the given medical inference; and (2) the company-designated physicians made an inconsistent statement on May 10, 2016.

Aside from its insufficiency, the July 8, 2015 medical assessment cannot also be considered as final. The case of *Vergara v. Hammonia Maritime Services, Inc.*[66] clarifies that the 120-day period given to the employer to assess the disability of the seafarer may be extended to a maximum of 240 days:

> For the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine Laws. **If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists.** The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.[67] (Emphasis supplied; citations omitted)

Records show that the company-designated physician advised Grona on January 21, 2016 to prepare for the removal of his colostomy tube. This only implies that when the medical assessment was issued on July 8, 2015, Grona's condition still required medical attention, hence, a justifiable reason to extend the period to 240 days for the period of diagnosis and treatment.[68] In effect, the July 8, 2015 medical assessment was premature and far from being final since additional assessments may still be made up to November 7, 2015, or the expiration of the 240-day extended period. Nevertheless, as it was obvious that the colostomy tube will still be attached to Grona's body even

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65 Id. at 519.

66 588 Phil. 895 (2008).

67 Id. at 912.

68 *Talaroc v. Arpaphil Shipping Corporation*, 817 Phil. 598, 612 (2017). "*If the company-designated physician fails to give his assessment within the period of 120 days with a sufficient justification* (*e.g.*, seafarer required further medical treatment or seafarer was uncooperative), then the period of diagnosis and treatment shall be extended to 240 days. The employer has the burden to prove that the company-designated physician has sufficient justification to extend the period."

after the expiration of the 240-day extended period, the respondents have nothing left to do but *acknowledge* that Grona in unfit to return to work and suffers from a permanent and total disability.

The purpose of a final and determinative assessment is for the award of disability benefits to be commensurate with the prolonged effects of the injuries suffered.[69] Without any statement on the seafarer's capacity or incapacity to return to work, regardless of how obvious the latter is, the medical assessment issued by the company-designated physicians in this case served no useful purpose. Consequently, Grona is entitled to total and permanent disability benefits by operation of law.

Opinion of a Third Doctor

Section 20 of the 2010 POEA-SEC further provides that "if a doctor appointed by the seafarer disagrees with the assessment of the company-designated doctor, a third doctor may be agreed jointly between the Employer and the seafarer," and "the third doctor's decision shall be final and binding on both parties." Here, despite the opportunity given by the LA, there was no third doctor appointed by both parties whose decision would be binding on the parties. Hence, it is up to the labor tribunal and the courts to evaluate and weigh the merits of the medical reports of the company-designated doctor and the seafarer's doctor.[70]

Moreover, Grona cannot be faulted for not complying with the third-doctor referral provision of the 2010 POEA-SEC. As already explained, there was no final and definitive disability grading issued within the 120-day or 240-extended period. Although Grona consulted his own physician, the lack of a final and definitive assessment from the company-designated physicians meant that there is nothing for him to properly contest and, again, the law steps in to conclusively characterize his disability as permanent and total.[71]

Damages and Attorney's Fees

The Court is mindful of the fact that the respondents and the company-designated physicians exerted real effort to provide Grona with medical assistance, such that his medical condition was monitored during its progress. The following letter dated February 6, 2015 sent to Grona's wife is likewise noteworthy:

> The above Carnival UK crew member [Grona] is critically ill in hospital in Cabo San Lucas, Mexico. He was taken ill whilst working onboard the Queen Elizabeth cruise ship. We are hoping to make arrangements for Wero's wife, Cleotilde Grona, to travel to Mexico to be with her, once she has obtained the necessary passport and visa. x x x

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69 *Magsaysay Mol Marine v. Atraje*, 836 Phil. 1061, 1078 (2018), citing *Sunit v. OSM Maritime Services, Inc.*, supra note 56 at 519.

70 *Dalusong v. Eagle Clarc Shipping Phils., Inc.*, 742 Phil. 377, 386 (2014).

71 *Layug v. National Labor Relations Commission*, G.R. No. 229260, September 30, 2020.

> Carinval UK will be responsible for the costs of Mrs. Grona's travel arangements to obtain these documents Similarly we will cover the cost of Mrs. Grona's flights, accommodation and associated expenses (such as meals) that are incurred as a result of her travel to Mexico, including her return flight to the Philippines.[72]

With this act of humanity and recognition of Grona's sacrifices as a seafarer, the Court finds that that there is no bad faith on the part of the respondents as to justify the award for moral and exemplary damages.

On the other hand, Grona's claim for reimbursement of medical expenses must be granted. He was able to present receipts of the expenses incurred with the total amount of ₱10,617.00.[73]

Lastly, Grona is entitled to attorney's fees equivalent to ten percent (10%) of the total monetary awards following Article 2208 of the Civil Code of the Philippines, which allows its recovery in actions for recovery of wages of laborers and actions for indemnity under the employer's liability laws.

Respondents, including Norma L. David as president and owner of Singa Ship, shall be jointly and severally liable to Grona in accordance with Section 10 of Republic Act (R.A.) No. 8042,[74] as amended by R.A. No. 10022,[75] which provides that "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."

Consistent with the pronouncement of the Court in *Nacar v. Gallery Frames*,[76] interest at the rate of six percent (6%) *per annum* is hereby imposed on the total monetary award.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 28, 2018 and the Resolution dated May 20, 2019 of the Court of Appeals in CA-G.R. SP No. 149861 are **REVERSED** and **SET ASIDE**. Respondents Singa Ship Management Phils. Inc, CUNARD, and Norma L. David are **ORDERED** to jointly and solidarily pay petitioner Wero Jocosol Grona the following:

(a) US$60,000.00 or its peso equivalent representing his disability benefit under the 2010 Philippine Overseas Employment Administration – Standard Employment Contract;

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72 *Rollo*, p. 146

73 Id. at 327.

74 Migrant Workers and Overseas Filipinos Act of 1995.

75 An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipino Act of 1995.

76 716 Phil. 267 (2013).

(b) ₱10,617.00 medical expenses; and

(c) Attorney's fees equivalent to ten percent (10%) of the total monetary award.

The total monetary award shall be subject to interest rate of six percent (6%) *per annum* from the finality of this Decision until full payment.

The Labor Arbiter is hereby **ORDERED** to make a computation of the total monetary benefits due to petitioner in accordance with this Decision.

SO ORDERED.

ROSMARI D. CARANDANG
Associate Justice

WE CONCUR:

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

I attest 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.

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

ALEXANDER G. GESMUNDO
Chief Justice