



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated October 5, 2020, which reads as follows:*

**“G.R. No. 211574 – (PHILIPPINE TRANSMARINE CARRIERS, INC., ROYAL CARIBBEAN CRUISES, LTD., petitioners v. RONILO A. TRINIDAD, respondent).** – This is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, as amended, assailing the Decision<sup>2</sup> dated July 5, 2013 and Resolution<sup>3</sup> dated February 28, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 117489. The assailed issuances set aside the August 13, 2010 Decision<sup>4</sup> and October 21, 2010 Resolution<sup>5</sup> of the National Labor Relations Commission (NLRC) in NLRC LAC No. (OFW-M) 03-000190-10, which, in turn, affirmed *in toto* the Decision<sup>6</sup> dated November 10, 2009 of the Labor Arbiter (LA) in NLRC NCR Case No. OFW(M) 02-02483-09, dismissing Ronilo A. Trinidad’s (respondent) claim for disability benefits.

**Antecedents**

On August 1, 2007, respondent was hired by petitioner Philippine Transmarine Carriers, Inc. (PTCI) in behalf of its principal, Royal Caribbean Cruises, Ltd. (Royal Caribbean) to serve as a waiter on board the vessel MS Voyager of the Seas for a period of six months.<sup>7</sup>

Respondent’s Pre-Employment Medical Examination (PEME), which was conducted on August 10, 2007 at the Sagrada Corazon Medical and Allied Services Center, Inc., revealed that he has a scar on his left wrist resulting from

<sup>1</sup> *Rollo*, pp. 3-25.

<sup>2</sup> *Id.* at 36-49; penned by Associate Justice Sesinando E. Villon, with the concurrence of Associate Justices Florito S. Macalino and Pedro B. Corales.

<sup>3</sup> *Id.* at 68.

<sup>4</sup> *Id.* at 83-89; penned by Commissioner Dolores M. Peralta-Beley, with the concurrence of Presiding Commissioner Leonardo L. Leonida and Commissioner Mercedes R. Posada-Lacap.

<sup>5</sup> *Id.* at 91-92.

<sup>6</sup> *Id.* at 75-81; rendered by Labor Arbiter Gaudencio P. Demaisip, Jr.

<sup>7</sup> *Id.* at 36-37.

an operation due to a fracture.<sup>8</sup> Nevertheless, respondent was still deployed by PTCI and, accordingly, commenced his duty with Royal Caribbean.

In course of his duty, respondent felt pain in his left wrist.<sup>9</sup> He underwent medical examination at the Institut Universitari Dexeus in Barcelona, Spain, but was eventually repatriated to the Philippines on October 23, 2007.<sup>10</sup>

Thereafter, respondent was referred to PTCI's company-designated physicians at the Notre Dame Medico Dental Clinics, Inc. (NDMDCI) in Malate, Manila for a series of consultations. He was initially examined by Dr. Ida Tacata (Dr. Tacata).<sup>11</sup> On August 19, 2008, respondent was ultimately given the following final diagnoses:

S/P Carpal Tunnel Release, Right  
S/P Selective Fusion Left, Wrist

NDMDCI likewise declared him "FIT TO RESUME FORMER WORK."<sup>12</sup> However, on September 24, 2008, Dr. Tacata issued a medical certificate stating that, "Because of selective fusion use of (L) hand and wrist is limited. Advised to avoid previous work station."<sup>13</sup>

This prompted the respondent to consult Dr. Venancio P. Garduce, Jr., an orthopedic surgeon at the Philippine General Hospital who, in turn, declared that "it would be impossible for him to work as seaman-waiter. Disability Grade of Six (6) is recommended."<sup>14</sup> Thus, on February 11, 2009, petitioner filed a complaint for disability benefits with the arbitration branch of the NLRC.<sup>15</sup>

On November 10, 2010, the LA rendered a Decision dismissing respondent's complaint. The LA found that respondent's ailment is a pre-existing condition which was not incurred during the course of his employment contract. Likewise, the declaration from the company-designated physician that respondent was fit to work meant that no disability grading was necessary. Thus, respondent was not entitled to payment of disability benefits.<sup>16</sup>

On appeal, the NLRC affirmed the LA's Decision *in toto*. The NLRC found that respondent had concealed his condition during PEME, thereby disqualifying him from making a claim for disability benefits.<sup>17</sup>

<sup>8</sup> Id. at 69.

<sup>9</sup> Id. at 84.

<sup>10</sup> Id. 37.

<sup>11</sup> Id. at 37-38.

<sup>12</sup> Id. at 73.

<sup>13</sup> Id. at 40.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id. at 80-81.

<sup>17</sup> Id. at 88.

Aggrieved, respondent interposed a Rule 65 petition for *certiorari* with the CA. The appellate court set aside the findings of the NLRC and the LA, ruling that contrary to PTCI's claims, respondent never concealed his ailment. The CA found that respondent had already been previously employed by PTCI to serve as a waiter on board the MS Voyager of the Seas on February 9, 2006. While performing his duties, respondent suffered an injury to his left hand and was repatriated to the Philippines on May 4, 2006. When he was examined via Magnetic Resonance Imaging (MRI) on December 28, 2006, the doctors found a fracture which was, thereafter, surgically repaired. Respondent thus, sustained a work-related injury. The CA also added that respondent's illness could already be considered as a permanent total disability because the August 19, 2008 final diagnosis of the company-related physicians exceeded the period of 240 days from the time that respondent was repatriated on October 23, 2007.<sup>18</sup>

Accordingly, the CA made the following disquisition:

WHEREFORE, the instant petition is hereby GRANTED. The assailed decision and resolution of public respondent National Labor Relations Commission are SET ASIDE for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. Let this case be remanded to the NLRC and the Labor Arbiter for computation of petitioner's disability claims, plus the amount equivalent to 10% of the award by way of attorney's fees.

SO ORDERED.<sup>19</sup>

Petitioners' motion for reconsideration<sup>20</sup> of the CA Decision was denied in the assailed Resolution dated February 28, 2014.

Hence, the present recourse.

### Issues

Petitioner argues in the affirmative of the following issues:

I.

With all due respect, the Honorable Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that respondent did not conceal his past medical condition.<sup>21</sup>

II.

The Court of Appeals committed serious, reversible error of law in remanding the case before the NLRC and Labor Arbiter.<sup>22</sup>

---

<sup>18</sup> Id. 42-47.

<sup>19</sup> Id. at 49.

<sup>20</sup> Id. at 50-65.

<sup>21</sup> Id. at 10.

<sup>22</sup> Id. at 17.

## III.

With all due respect the Honorable Court of Appeals erred in awarding attorney's fees in favor of respondent. No bad faith can be attributed to the petitioners in denying the claim for permanent disability benefits.<sup>23</sup>

**Ruling of the Court**

Generally, only questions of law, not questions of facts,<sup>24</sup> may be raised in a petition for review on *certiorari*.<sup>25</sup> However, the present case falls under one of the recognized exceptions to the rule, *i.e.*, when the findings of the Labor Arbiter, the NLRC, and/or the Court of Appeals are in conflict with one another.<sup>26</sup> Hence, it is incumbent upon the Court to calibrate the opposing views of the labor tribunals *vis-à-vis* those of the CA.

Following a judicious review of the records, the Court finds the instant petition to be bereft of merit, there being no reversible error on the part of the CA when it rendered the herein assailed issuances.

*There was no concealment on the part of respondent*

As culled from the records, petitioners were well aware of respondent's past medical history. In this case, petitioners have conveniently ignored – and even omitted from the annexes to the petition – the CA's finding that respondent (a) had already been previously employed as a waiter by PTCI in 2006; (b) suffered a fractured hand in the performance of his duties, resulting in his repatriation; (c) had already been thoroughly examined by a physician who did not find any signs of carpal tunnel syndrome; and (d) had fully disclosed such fact during his PEME in 2007.

PTCI's argument that respondent failed to disclose that he had carpal syndrome during his 2007 PEME is unavailing. Respondent had truthfully answered "yes" to the query on whether he had undergone an operation. Respondent had correctly disclosed that the operation was brought about by a fracture in his left hand because that was the diagnosis issued to him by his physician. The fact that PTCI's company-designated physician did not probe further is not respondent's burden.

In any event, it is not necessary, in order for an employee to recover compensation, that he must have been in perfect condition or health at the time

---

<sup>23</sup> *Id.* at 22.

<sup>24</sup> *Chu, Jr. et al. v. Caparas*, 709 Phil. 319, 328 (2013).

<sup>25</sup> *Pascual v. Burgos et al.*, 776 Phil. 167, 182 (2016).

<sup>26</sup> *Princess Talent Center Production, Inc. v. Masagca*, G.R. No. 191310, April 11, 2018, 880 SCRA 602, 632.

he received the injury, or that he be free from disease.<sup>27</sup> A worker brings with him possible infirmities in the course of his employment, and while the employer is not the insurer of the health of the employees, he takes them as he finds them and assumes the risk of liability.<sup>28</sup>

*Respondent's injury is work-related*

Carpal tunnel syndrome is a condition that causes numbness, tingling, or weakness in the hand.<sup>29</sup> The pain in the carpal tunnel is due to excess pressure in the wrist on the median nerve.<sup>30</sup> Repeating the same hand and wrist motions or activities over a prolonged period of time may aggravate the tendons in the wrist, causing swelling that puts pressure on the nerve.<sup>31</sup>

A careful scrutiny of the evidence extant in the records of the case readily reveals that, indeed, a causal link was established between respondent's employment and his disability. Respondent's duties as a waiter entailed the repeated use of his hands which, naturally, contributed to the onset of his ailment. Jurisprudence holds that it is not required that the employment be the sole factor in the growth, development or acceleration of the illness to entitle the claimant to the benefits incident thereto.<sup>32</sup> In determining whether a disease is compensable, it is enough that there exists a reasonable work connection.<sup>33</sup> It is enough that the hypothesis on which the workmen's claim is based is probable.<sup>34</sup> Probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings.<sup>35</sup>

Thus, guided by the foregoing disquisition, We affirm the CA's finding that respondent's ailment is work-related. It is therefore compensable.

*At any rate, respondent's entitlement to full disability benefits had already lapsed by operation of law*

The determination of the fitness of a seafarer for sea duty is the province of the company-designated physician, subject to the periods prescribed by law.<sup>36</sup> In *Elburg Shipmanagement Phils., Inc. v. Quiogue, Jr.*,<sup>37</sup> the Court laid down

<sup>27</sup> *Austria v. Crystal Shipping, Inc., et al.*, 781 Phil. 674, 685 (2016).

<sup>28</sup> *Skippers United Pacific, Inc. v. Lagna*, G.R. No. 217036, August 20, 2018, 878 SCRA 86, 102.

<sup>29</sup> *Carpal Tunnel Syndrome* <<https://www.webmd.com/pain-management/carpal-tunnel/carpal-tunnel-syndrome#1>> (visited September 21, 2020).

<sup>30</sup> *Carpal Tunnel Syndrome*, <<https://www.healthline.com/health/carpal-tunnel-syndrome#causes>> (visited September 21, 2020).

<sup>31</sup> *Carpal Tunnel Syndrome*, <<https://orthoinfo.aaos.org/en/diseases-conditions/carpal-tunnel-syndrome/>> (visited September 21, 2020).

<sup>32</sup> *Gamboa v. Maunlad Trans, Inc.*, G.R. No. 232905, August 20, 2018, 878 SCRA 180, 200.

<sup>33</sup> *Magat v. Interorient Maritime Enterprises, Inc.*, G.R. No. 232892, April 4, 2018, 861 SCRA 176, 178.

<sup>34</sup> *Villamor v. Employees' Compensation Commission, et al.*, 800 Phil. 269, 281 (2016).

<sup>35</sup> *Government Service Insurance System v. Cuntapay*, 576 Phil. 482, 492 (2008).

<sup>36</sup> *Carcedo v. Maine Marine Philippines, Inc., et al.*, 758 Phil. 166, 187 (2015).

<sup>37</sup> 765 Phil. 341 (2015).

the following guidelines that shall govern the claims for total and permanent disability benefits by a seafarer:

1. The company-designated physician must issue a final medical assessment on the seafarer's disability grading within a period of 120 days from the time the seafarer reported to him;
2. If the company-designated physician fails to give his assessment within the period of 120 days, without any justifiable reason, then the seafarer's disability becomes permanent and total;
3. 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; and
4. If the company-designated physician still fails to give his assessment within the extended period of 240 days, then the seafarer's disability becomes permanent and total, regardless of any justification.

Applying the foregoing standards to the case at bar, it may be recalled that respondent was repatriated to the Philippines on October 23, 2007. He was directed to go to PTCI's company-designated physicians at NDMCI on October 26, 2007.<sup>38</sup> Over the course of several months, respondent was evaluated by NDMCI until the latter issued its 15<sup>th</sup> and final Report<sup>39</sup> on respondent's condition on August 19, 2008 or beyond the lapse of the 240-day period contemplated in the above guidelines.

By operation of law, considering that no certification, compliant with the POEA-SEC and the Labor Code, was issued by the company-designated physician within the 120/240-day period,<sup>40</sup> respondent's condition had already lapsed into a total and permanent disability.<sup>41</sup> He is, therefore, entitled to full disability benefits.

*As to the other monetary awards*

---

<sup>38</sup> *Rollo*, p. 70.

<sup>39</sup> *Id.* at 73.

<sup>40</sup> *Belchem Philippines, Inc/United Philippine Lines, et. al. v. Zafra, Jr.*, 759 Phil. 514, 528-529 (2015).

<sup>41</sup> *Tamin v. Magsaysay Maritime Corporation*, 794 Phil. 286, 299 (2016).

The Court upholds the award of attorney's fees, the same being consistent with Article 2208(8)<sup>42</sup> of the Civil Code. Respondent was forced to litigate and incur expenses to protect his rights and interests.<sup>43</sup>

Consistent with the Court's pronouncement in *Nacar v. Gallery Frames*,<sup>44</sup> interest at the rate of six percent *per annum* is hereby imposed on the total monetary award from the date of finality of this judgment until its full satisfaction.

*The corporate officers of PTCI must be held jointly and solidarily liable with the corporation*

Lastly, Section 10 of Republic Act (R.A.) No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Section 7 of R.A. No. 10022, states:

SECTION 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"  
(Underscoring ours)

Prescinding from this provision, the corporate officers of PTCI must be held jointly and solidarily liable with Royal Caribbean for the judgment award due respondent.

**WHEREFORE**, in light of all the foregoing, the petition is **DENIED** for lack of merit. The Decision dated July 5, 2013 and the Resolution dated February 28, 2014 of the Court of Appeals in CA-G.R. SP No. 117489 are hereby **AFFIRMED** with **MODIFICATION** in that interest at the rate of six percent (6%) *per annum* is imposed on the total monetary award, reckoned from the date of finality of this judgment until its full satisfaction. In addition, the corporate officers of Philippine Transmarine Carriers, Inc. are hereby

<sup>42</sup> 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

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

<sup>43</sup> *RTG Construction Inc. and/or Go/Russet Construction and Devt. Corp. v. Faeto*, 623 Phil. 511, 521-522 (2009).

<sup>44</sup> 716 Phil. 267 (2013).

declared joint and solidarily liable with Philippine Transmarine Carriers, Inc. and Royal Caribbean Cruises, Ltd. for the said judgment award.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *10/5/21*

Atty. Maricris S. Ferrer  
DEL ROSARIO & DEL ROSARIO  
Counsel for Petitioners  
14/F Del Rosario Law Building  
21st Drive cor. 20th Drive  
Bonifacio Global City  
1630 Taguig City

COURT OF APPEALS  
CA G.R. SP No. 117489  
1000 Manila

Atty. Christopher Lyncurgus Q. Morania  
BANTOG & ANDAYA LAW OFFICES  
Counsel for Respondent  
4/F L & F Building, 107 Aguirre St.  
1229 Legaspi Village, Makati City

NATIONAL LABOR RELATION COMMISSION  
NLRC NCR CASE NO. (M) 02-02483-09  
NLRC LAC NO. (OFW-M) 03-000190-10  
Ben-Lor Building  
1184 Quezon Avenue, Brgy. Paligsahan  
1103 Quezon City

PHILIPPINE JUDICIAL ACADEMY  
Research Publications and Linkages Office  
Supreme Court  
[research\_philja@yahoo.com]

PUBLIC INFORMATION OFFICE  
Supreme Court, Manila  
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES  
Supreme Court, Manila

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila