Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GRACE MARINE SHIPPING CORPORATION and/or CAPT. JIMMY BOADO,
Petitioners,

- versus -

ARON S. ALARCON,
Respondent.

G.R. No. 201536

Present:

CARPIO, *Chairperson,*
DEL CASTILLO,
MENDOZA,
LEONEN, *and*
JARDELEZA,* *JJ.*

Promulgated:
09 SEP 2015

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DECISION

DEL CASTILLO, *J.*:

Assailed in this Petition for Review on *Certiorari*[1] are: 1) the December 8, 2011 Decision[2] of the Court of Appeals (CA) dismissing the petition for review in CA-G.R. SP No. 109238; and 2) the CA's April 12, 2012 Resolution[3] denying reconsideration of its assailed Decision.

Factual Antecedents

In 2006, respondent Aron S. Alarcon was hired by petitioner Grace Marine Shipping Corporation (Grace Marine Shipping) for its foreign principal, Universal Marine Corporation. He was assigned as Messman onboard the vessel "M/V Sunny Napier II." His nine-month Employment Contract[4] dated November 28, 2006 stated among others that he was to receive a monthly salary of US$403.00.

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* Per Special Order No. 2166 dated September 9, 2015.
1 *Rollo*, pp. 29-67.
2 Id. at 69-79; penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Ramon R. Garcia and Samuel H. Gaerlan.
3 Id. at 109-110.
4 CA *rollo*, p. 128.

After undergoing the mandatory pre-employment medical examination, respondent was declared fit to work and, on January 11, 2007, he boarded "M/V Sunny Napier II."

As Messman, respondent maintained messroom sanitation, washed clothes and dishes, cleaned the area on board and was in charge of general cabin sanitation. He used cleaning agents such as surfactants, alkalines, phosphates, acids, complexing and bleaching agents, enzymes and other strong chemical substances.[5]

On August 6, 2007, while aboard "M/V Sunny Napier II," respondent developed a skin condition. He was examined by a physician in New Zealand, and was diagnosed as having "infected fungal dermatitis."[6] On August 27, 2007, respondent was diagnosed by another doctor as having "eczema squamosum" and declared unfit for duty.[7]

Respondent was repatriated on August 29, 2007 and was immediately referred to the company-designated physician, Dr. Nicomedes G. Cruz (Dr. Cruz). On August 30, 2007, respondent was diagnosed with "nummular eczema" on his arms, body, legs and scalp by the company-designated dermatopathologist, Dr. Eileen Abesamis-Cubillan (Dr. Abesamis-Cubillan).

Respondent underwent treatment, but his condition was characterized by recurring lesions all over his body.

On January 21, 2008, Dr. Cruz declared respondent's condition as a Grade 12 disability – "slight residuals or disorder of the skin."[8]

On January 31, 2008, respondent was declared fit to work, although it was noted that he still had "minimal and resolving" skin lesions. In his letter-report[9] to petitioner Capt. Jimmy Boado (Capt. Boado), Grace Marine Shipping's General Manager for Crewing, Dr. Cruz wrote:

> Patient was repatriated due to skin lesions incurred last July 2007 x x x.
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> He had his follow-up today. The skin lesions are minimal and resolving. Our dermatologist have [sic] cleared him to go back to work.

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5 Id. at 120.
6 Id. at 104.
7 Id. at 105.
8 Id. at 112.
9 Id. at 113.

> DIAGNOSIS:
> Nummular Eczema,
> Psoriasis
>
> RECOMMENDATION:
> He is fit to work effective January 31, 2008

Likewise, in a January 31, 2008 letter[10] to Dr. Cruz, Dr. Abesamis-Cubillan wrote:

> Lesions are resolving but due to inability to procure meds, residual lesions are present. Patient may resume work at this time but is advised to continue medications so as to completely resolve lesions and to continue treatment while on board.

In February 2008, respondent again consulted with Dr. Abesamis-Cubillan, who certified that respondent was suffering from nummular dermatitis which can be recurrent depending on exposure to various factors such as cold temperature, use of harsh soaps like detergents and dishwashing soaps, use of chemicals, and stress.[11]

In April 2008, respondent consulted an independent physician, Dr. Glenda A. Fugoso (Dr. Fugoso), who declared that he was unfit to work and was suffering from subacute to chronic spongiotic dermatitis which may require lifetime treatment.[12]

In another letter[13] to Capt. Boado dated June 4, 2008, Dr. Cruz wrote:

> This is in response to your query about the above patient.[14]
>
> Our dermatologist said that the patient's condition was due to the sensitivity of his skin. The dermatologist also noted that there was recurrence and flare-up of lesions even when the patient is not on board ship.
>
> During the patient's last follow-up, when he was cleared for work, the lesions were minimal and are resolving hence he was advised to continue his medication while on board for the lesion to completely resolve.

Petitioners offered to compensate respondent in the amount of US$5,225.00 based on a Grade 12 disability rating, but respondent claimed entitlement to Grade 5 disability benefits with a higher indemnity. Petitioners insisted on their offer.

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10 Id. at 114.
11 Id. at 132.
12 Id. at 133.
13 Id. at 115.
14 Referring to respondent.

Ruling of the National Conciliation and Mediation Board

Respondent filed a complaint against petitioners for the recovery of US$60,000.00 permanent total disability benefits; □100,000.00 moral and exemplary damages; and 10% attorney's fees before the National Conciliation and Mediation Board (NCMB). The case was docketed as MVA Case No. AC-890-36-05-07-08.

In his Position Paper[15] and Reply,[16] respondent stated that his illness entitles him to permanent and total disability benefits and other claims. He argued that such illness is work-related, dermatitis being an occupational disease under Section 32-A of the Philippine Overseas Employment Administration- Standard Employment Contract (POEA-SEC); that his illness was caused by his handling of and exposure to chemical agents at work; and that said chemicals are skin irritants and sensitizers which triggered his condition. He averred that prior to his employment, he was not suffering from skin disease as shown by the results of his pre-employment medical examination which declared him as fit to work for petitioners. He asserted that the company-designated doctor's January 31, 2008 declaration of his fitness to work is not valid, since it is stated therein that he still had to continue medication and treatment to completely resolve his lesions which were not yet healed. Considering that he was medically advised to avoid working in an environment that would aggravate his condition, this meant that he may no longer return to duty under the same conditions he was exposed to.

Petitioners, on the other hand, claimed in their Position Paper[17] and Reply[18] that respondent is not entitled to his claims since his ailment – nummular eczema – was caused by his "innate skin sensitivity" and not his work on board "M/V Sunny Napier II." They pointed out that respondent had been declared fit for work by Drs. Cruz and Abesamis-Cubillan; also it cannot be said that respondent's ailment was work-related since it recurred even after he was no longer exposed to the working conditions on board the vessel. They claimed that assuming respondent is entitled to disability benefits, such is limited to only US$5,225.00 in accordance with the Grade 12 disability assessment issued by Dr. Cruz; and that respondent is not entitled to damages and attorney's fees since he has no valid claim against them. Petitioners thus prayed for dismissal of the complaint, and in the alternative, that they be held liable only to the extent of US$5,225.00.

On May 22, 2009, the NCMB issued its Decision,[19] decreeing as follows:

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15 CA *rollo*, pp. 119-127.
16 Id. at 143-146.
17 Id. at 79-101.
18 Id. at 134-142.
19 Id. at 62-70; signed by Chairperson Delia T. Uy and Panel Members Gregorio S. Sialsa and Gregorio C. Biares, Jr.

The main issue to be resolved is whether or not complainant is entitled to disability benefit and attorney's fees.

The Panel of Voluntary Arbitrators herein supports complainant's view.

Indeed Complainant's illness manifested during the term of his employment with respondents as messman as he was exposed to surfactant, alkaline, phosphates, acids, complexing agents, bleaching agents, enzymes and other strong chemical substances. Complainant was also constantly exposed to stress and strain because of long hours of work and low staffing level thus contributing to the decline of his health and resistance to the illness.

Our own research confirms that complainant's illness can be reasonably related to his work as messman and not everyone who has the gene mutations gets nummular eczema or dermatitis as there are several forms of eczema or dermatitis that people can develop. Certain "environmental triggers" play a role in causing skin disorder in people who have the gene mutations. Also, psychological stress has long been understood as a trigger for skin flares, but scientists are still unclear about exactly how this occurs. Studies do show that not only can a sudden, stressful event trigger a rash or worsen; daily hassles of life can also trigger a flare. In addition, one study showed that people who are categorize [sic] as "huge worriers" were almost two times less likely to respond to treatment compared to "low worriers." Sometime [sic] even mild injuries to the skin such as abrasions can trigger skin flares. This is called the koebner[20] phenomenon.

The Panel of Voluntary Arbitrators finds no convincing evidence to show that complainant's illness was caused by genetic predisposition or drug addiction. Having ruled out these reasons, what remain [sic] is the environmental factor such as complainant's constant exposure to chemicals while on board the vessel such as surfactant, alkaline, phosphates, acids, complexing agents, bleaching agents, enzymes and other strong chemical substances that caused the skin injury in addition to the stress and strain which are present in his work area.

While treatment can help control symptoms of Nummular Eczema/Psoriasis, there is yet no cure for the illness. Complainant's continued employment on board is deleterious to his health because he will again be exposed to factors that increases [sic] the risk of further recurrence and aggravation of the skin problem such as strong chemical substances, stress and including changes in season and climate.

This office finds merit in the contention of complainant that as a result of his work-connected illness, he suffered permanent disability as he could not return to his work as messman and earn wages in the same kind of work of similar nature [sic] that he was trained for. In awarding disability compensation, it is not the injury which is compensated, but rather the incapacity to work resulting in the impairment of one's earning capacity.

The High Tribunal consistently ruled that neither is it necessary, in order for an employee to recover compensation, that he must have been in perfect condition or health at the time he recurred the injury [sic], or that he be free from disease. Every workingman brings with him to his employment certain

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[20] Should be Koebner.

> infirmities, and while the employer is not the insurer of the health of his employees, he takes them as he finds them, and assumes the risk of having a weakened condition aggravated by some injury which might not hurt or bother a perfectly normal, healthy person (More Maritime Agencies, Inc. vs. NLRC, 307 SCRA 189).
>
> As ruled in Marcopper Manning Corporation vs. NLRC, 200 SCRA 167, the Arbitration Branch is mindful that all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer, contractual rights and duties, such as these arising from the provisions of the POEA Standard Employment Contract and/or the Collective Bargaining Agreement, should be voluntarily stipulated in good faith and must constitute the law between the parties.
>
> Despite the inability to resume sea duty, this Panel award [sic] Grade 5 disability only to complainant. He is still physically capable of performing other tasks or jobs besides being a messman even with the skin disorder although not of the same position as messman. To this panel, despite declaration of fitness to resume work by the company-designated physician in his 11th report, there is no concrete evidence indicated that respondent allowed him to resume sea duty on January 31, 2008. Likewise, both the company-designated physician and the independent dermatologist consulted by complainant agree that the illness is recurrent and would be considered as unemployable as this illness would entail lifetime treatment. With that, we considered his inability to resume x x x sea duty as justification to award x x x disability compensation based on Grade 5 as evaluated by his attending physician.
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> For having been compelled to litigate and incur expenses, complainant's claim for attorney's fees is also granted. Other claims however are dismissed for lack of factual and legal basis.
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> WHEREFORE, premises considered, respondents are hereby ordered to pay complainant jointly and severally the amount of US$29,480.00 representing his disability benefit based on the POEA Standard Employment Contract plus (10%) ten percent attorney's fees, Philippine Currency or the amount of US$2,948.00 at the rate of exchange prevailing at the time of actual payment. All other claims are dismissed.
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> SO ORDERED.[21] (Underscoring in the original.)

Ruling of the Court of Appeals

In a Petition for Review[22] filed with the CA and docketed therein as CA-G.R. SP No. 109238, petitioners sought to set aside the above NCMB Decision, reiterating mainly their arguments in their pleadings filed with the NCMB. In addition, petitioner claimed that the NCMB did not provide the medical basis for its findings; that there is no basis to conclude that respondent is entitled to benefits corresponding to a Grade 5 disability; that on the contrary, it is the opinion of the

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21 CA *rollo*, pp. 67-70.

22 Id. at 23-61.

company-designated physician, Dr. Cruz, that is the best and most reliable determinant of respondent's fitness to work or degree of disability. Petitioners argued that the NCMB committed grave abuse of discretion in disregarding the opinion of Dr. Cruz; and that the opinion of the independent physician consulted by respondent cannot determine his fitness or disability. Petitioners likewise sought injunctive relief.

On December 8, 2011, the CA issued the herein assailed Decision containing the following pronouncement:

> Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and contract. Articles 191 to 193 of the Labor Code of the Philippines provide the basis for the worker's entitlement to disability benefits. The said provisions equally [apply] to employees actually working in the Philippines and to seafarers. The respondent claims permanent disability, hence, we should refer to Article 192(c)(1) of the Labor Code which provides:
>
> > *ART. 192. Permanent Total Disability. x x x*
> >
> > *(c) The following disabilities shall be deemed total and permanent:*
> >
> > > *(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;*
>
> By contract, the Philippine Overseas Employment Administration – Standard Employment Contract (POEA-SEC), as provided under Department Order No. 4, Series of 2000 of the Department of Labor and Employment, and the parties' Collective Bargaining Agreement (CBA) bind the seaman and his employer to each other. Section 20 (B) of the 2000 POEA-SEC governs the compensation and benefits to which a seafarer is entitled in case of injury or illness, *viz[.]*:
>
> > *"Section 20-B. Compensation and Benefits for Injury or Illness.*
> >
> > *The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:*
> >
> > *x x x x*
> >
> > *3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.*
> >
> > *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 this 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."*

To be entitled to compensation and benefits under the foregoing provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled, it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted. Work-related injury is defined under the 2000 POEA-SEC as an injury resulting in disability or death arising out of or in the course of employment. Work-related illness, on the other hand, is any sickness resulting in disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied.

Whether the illness of the respondent is work-related x x x does not seem to be an issue in the instant case. As x x x can be gathered from the pleadings of the petitioners and the position papers submitted by them before the labor tribunal, what they are only after is the proper determination of the degree of disability of the respondent. Moreover, the company-designated physician himself did not categorically state that the illness of the respondent is not work-related.

Be that as it may, the records will show that the respondent was treated of nummular dermatitis by the company-designated physician Nicomedes Cruz.

Dermatitis is listed as an occupational disease under Section 32-A. It is appreciated as an occupational disease if the nature of employment involves the use or handling of chemical agents which are skin irritants and sensitizers.

The respondent alleged that M/V Sunny Napier II is a chemical tanker[, t]hat he worked therein as a Messman. That being such, he was in charged [sic] of washing clothes and dishes, cleaning the area on board, the general sanitation using cleaning agents such as surfactant, alkaline, phosphates, acids, complexing agents, bleaching agents, enzymes, and other strong chemical substances. The petitioners did not seem to have ever disputed the said claims of the respondent. Based on the foregoing, it cannot be denied that there is causal connection between the nature of job of the respondent and the illness he contracted while employed with the petitioners.

The respondent was first seen by the company-designated physician on August 30, 2007. In the course of his treatment, the respondent was asked several times to return for follow-up check-ups so that his progress could be monitored. On January 31, 2008, he was finally declared fit to work. But despite the pronouncement of the company-designated physician, it appears that the illness of the respondent was not completely healed since he had to consult two physicians afterwards. One of the physicians that he consulted, Dr. Glenda A. Fugoso, contradicted the findings of the company-designated physician and declared the respondent unfit to work. It was further added that his condition might require a lifetime treatment. In view thereof, the respondent claims permanent total disability benefits from the petitioners.

Permanent total disability means disablement of an employee to earn wages in the same kind of work or work of a similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment can do. It does not mean state of absolute helplessness but inability to do substantially all material acts necessary to the prosecution of a gainful occupation without serious discomfort or pain and without material injury or danger to life. In disability compensation, it is not the injury per se which is compensated but the incapacity to work.

Permanent total disability refers to the inability of a worker to perform his job for more than 120 days, regardless of whether he loses the use of any part of his body. Otherwise stated, what determines the worker's entitlement to permanent disability benefits is his inability to work for more than 120 days.

In this jurisdiction, jurisprudence abounds holding that failure of the company-designated physician to pronounce a seafarer fit to work within 120 days entitles the latter to permanent total disability. This was the very ruling in *Abante v. KJGS Fleet Management Manila*:[23]

> *"It is gathered from the documents emanating from the Office of Dr. Lim that petitioner was seen by him from July 24, 2000 up to February 20, 2001 or a total of 13 times; and except for the medical reports dated February 5, 2001 and February 20, 2001 (when the doctor finally pronounced petitioner fit to work), Dr. Lim consistently recommended that petitioner continue his physical rehabilitation/therapy and revisit clinic on specific dates for re-evaluation, thereby implying that petitioner was not yet fit to work.*
>
> *Given a seafarer's entitlement to permanent disability benefits when he is unable to work for more than 120 days, the failure of the company-designated physician to pronounce petitioner fit to work within the 120-day period entitles him to permanent total disability benefit in the amount of US$60,000.00."*

The same ruling is echoed in the case of *Oriental Shipmanagement Co., Inc. v. Bastol*:[24]

> *"In all, after his repatriation on March 7, 1997, Bastol went to see Dr. Peralta on March 8, 1997, and until the last examination by Dr. Lim on October 28, 1997, he had been treated by these company-designated doctors for a period spanning around seven months and 20 days or for approximately 230 days. Clearly then, the maximum period of 120 days stipulated in the SEC for medical treatment and the declaration or assessment by the company-designated physician of either being fit to work or the degree of permanent disability had already lapsed. Thus, by law, if Bastol's condition was with the lapse of the 120 days of post-employment medical examination and treatment, which actually lasted as the records*

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23 622 Phil. 761 (2009).
24 636 Phil. 358 (2010).

> *show for at least over eight months and for over a year by the time the complaint was filed, without his being employed at his usual job, then it was certainly total permanent disability."*
>
> In the case at bar, the respondent was under the treatment of the company-designated physician for five (5) months, or 154 days to be exact, from the time he was taken to the latter for an examination on August 30, 2007 until he was declared fit to work on January 31, 2008. Applying the foregoing jurisprudence in the case at bar, there is no doubt that the respondent is entitled to permanent total disability benefits. The petitioners cannot take advantage of the pronouncement of the company-designated physician that the respondent was already fit to work to evade their liability. Indeed, the respondent has been eventually declared fit to work but the same came only after more than 120 days. The law and jurisprudence is very clear on the matter, if the company-designated physician failed to declare the seafarer fit to [work] within 120 days, the latter is entitled to a permanent total disability benefits [sic].
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> For obvious reason, the company-designated physician did not determine the degree of disability of the respondent. But being the expert on the matter, we defer to the finding of the public respondent that the respondent is entitled to permanent disability benefits equivalent to Grade 5 disability under the POEA contract.
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> The Court also sustains the award of attorney's fees in favor of the respondent. The claim for attorney's fees is granted following Article 2208 of the New Civil Code which allows its recovery in actions for recovery of wages of laborers and actions for indemnity under the employer's liability laws. The same fees are also recoverable when the defendant's act or omission has compelled the plaintiff to incur expenses to protect his interest as in the present case following the refusal by the petitioners to settle the respondent's claims. Pursuant to prevailing jurisprudence, the respondent is entitled to attorney's fees of ten percent (10%) of the monetary award.
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> WHREFORE [sic], premises considered, the instant petition for review is DISMISSED for lack of merit.
>
> SO ORDERED.[25]

Petitioners filed a Motion for Reconsideration,[26] but the CA denied the same in its April 12, 2012 Resolution. Hence, the present Petition.

Issues

Petitioners submit the following issues for resolution:

1. Whether x x x the Court of Appeals had legal basis in awarding US$29,480.00.

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25 *Rollo*, pp. 72-78.
26 Id. at 80-107.

2. Whether x x x petitioners are liable to private respondent for disability benefits amounting to US$29,480.00 despite the fact that he was declared fit to work by the company-designated physician.

3. Whether x x x the medical findings of the company-designated physician should be given more weight than that of the physician appointed by the seafarer.

4. Whether x x x the private respondent is entitled to attorney's fees.[27]

Petitioners' Arguments

Praying that the assailed CA pronouncements be set aside and that a new judgment be rendered absolving them from the payment of disability benefits and attorney's fees and dismissing MVA Case No. AC-890-36-05-07-08, petitioners maintain in their Petition and Reply[28] that there is no substantial medical evidence to support the award of indemnity to respondent. Since he was declared fit to work by the company-designated physician, he should not be entitled to disability benefits. Moreover, respondent's illness is not work-connected, and he failed to prove that it is so. Petitioners insist that the findings of the company-designated physician, and his recommendation relative to disability grading and compensation, should be upheld; that such findings should be the sole basis for determining whether respondent is fit to work; and that since there is no basis for an award of disability benefits, respondent's claim for attorney's fees should fail as well, and instead his labor case should be dismissed.

Respondent's Arguments

In his Comment,[29] respondent counters that there is substantial evidence to prove that he is entitled to a Grade 1 disability rating, and not merely Grade 5, which thus entitles him to an award of US$60,000.00 in accordance with the POEA contract provisions. He maintains that his ailment rendered him unemployable since it is recurrent and requires lifetime treatment; that such finding was arrived at by the company-designated physician, Dr. Abesamis-Cubillan; and that his illness was caused by his handling of irritating chemicals during his stint on board the vessel of petitioners' principal.

Our Ruling

The Court denies the Petition.

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27 Id. at 38.
28 Id. at 127-141.
29 Id. at 116-119.

Respondent was diagnosed by the company-designated physicians, Drs. Cruz and Abesamis-Cubillan to be suffering from nummular eczema and psoriasis. Although he was initially cleared of psoriasis, the final diagnosis of the said doctors as contained in Dr. Cruz's January 31, 2008 letter-report to Capt. Boado indicates that respondent suffered from said skin disease, apart from nummular eczema. Moreover, said letter-report indicated that respondent's illness has not completely healed, and that there were still "minimal and resolving" lesions. Another letter of Dr. Abesamis-Cubillan to Dr. Cruz dated January 31, 2008 declared that as of said date, "residual lesions are present" and respondent was "advised to continue medications so as to completely resolve lesions and to continue treatment while on board." This only means that respondent's condition has not been completely addressed and his illnesses persisted even after a period of treatment spanning five (5) months or approximately 150 days, or from August 30, 2007 up to January 31, 2008.

In another handwritten certification dated February 12, 2008, the same company-designated physician Dr. Abesamis-Cubillan confirmed that respondent's condition can be recurrent depending on exposure to various factors such as cold temperature, use of harsh soaps like detergents and dishwashing soaps, use of chemicals, and stress. And then again, in an April 1, 2008 certification, Dr. Fugoso – an independent physician consulted by respondent – declared that respondent was unfit to work and was suffering from subacute to chronic spongiotic dermatitis which may require lifetime treatment.

Respondent's condition was diagnosed to be psoriasis and nummular eczema by the company-designated doctors, while it was found to be chronic spongiotic dermatitis by an independent doctor. The conflict in diagnoses can be resolved, as petitioners correctly argue, by adherence to the company-designated physicians' findings. Thus, for purposes of the present case, respondent suffered from psoriasis and nummular eczema. Nonetheless, while respondent was declared fit to return to work, the obvious fact remains that at the time of such declaration, his illness has not been cured, as he continued to suffer from recurrent lesions – as Drs. Cruz and Abesamis-Cubillan themselves acknowledged in their written communications and certifications. Thus, Dr. Cruz's declaration of fitness is a nullity.

The evidence further suggests that before respondent was employed by petitioners, he did not suffer from psoriasis and nummular eczema; if he had been afflicted with these ailments prior to employment, surely he would not have been taken in. He was given a clean bill of health through the standard pre-employment physical examination. Besides, in any of their pleadings, petitioners did not contest this fact; nor did they claim that respondent had these conditions prior to his employment.

The evidence shows that during his eight-month stint aboard "M/V Sunny Napier II," respondent was constantly exposed to chemicals. His sole responsibility as messman was to maintain overall sanitation – cleaning the messroom, the area on board, the cabins, washing dishes, clothes, etc.; this cannot be done without the aid of cleaning agents, substances, and chemicals. Thus, he inhaled and came into direct skin or body contact with such irritating and injurious chemicals and fumes. Certainly, as with any other seafarer, he was subjected to stress at work, climate changes, and other environmental factors or elements. As a result, he contracted nummular eczema and psoriasis which spread all over his body.

There is no validity to petitioners' argument that respondent's "innate skin sensitivity" caused his illness. If this were true, then it did not have to take eight months before he became ill, considering the level of exposure he was subjected to, daily for at least eight hours. Respondent's immune system was able to ward the disease for quite some time but respondent is not superhuman; his body can only take so much. At some point, continuous direct exposure to irritating – if not deadly, harmful or toxic – chemicals can only lead to the inevitable and unfortunate condition he now finds himself in.

Nummular eczema, "also known as discoid eczema and nummular dermatitis, is a common type of eczema that can occur at any age. It is notable because it looks very different [from] the usual atopic dermatitis and can be much more difficult to treat. The word "nummular" comes from the Latin word for "coin" as the spots can look coin-shaped x x x. They tend to be well-defined, [and] may be very itchy or not x x x at all. They can be very dry and scaly or x x x wet and open. The cause of nummular eczema is unknown, but it tends to be more isolated than atopic dermatitis and does not seem to run in families. Sometimes there is a triggering event such as: a. an insect bite; b. a reaction to inflammation (including atopic dermatitis) elsewhere on the body; c. dry skin in the winter."[30] Direct exposure to cleaning agents and other chemicals and the fumes thereof – which naturally cause irritation and thus inflammation as a physiological reaction, as well as climate or temperature changes, can be said to have triggered respondent's nummular eczema.

In *Maersk Filipinas Crewing, Inc./Maersk Services Ltd. v. Mesina*,[31] this Court held that there is a reasonable connection between the nature of one's work and his contracting psoriasis when, in the performance of his duties, strong detergents, fabric conditioners, special soaps, and other chemicals are used. The Court therein declared that –

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[30] *Nummular Eczema*, National Eczema Association (United States of America), 4460 Redwood Highway, Ste 16D San Rafael, CA 94903. *http://nationaleczema.org/eczema/types-of-eczema/nummular-eczema/*accessed on June 15, 2015.

[31] G.R. No. 200837, Resolution of June 5, 2013, 697 SCRA 601.

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

In interpreting the said definition, the Court has held that for disability to be compensable under Section 20(B) of the 2000 POEA-SEC, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted.

The Court has likewise ruled that the list of illnesses/diseases in Section 32-A does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties. This is in view of Section 20(B)(4) of the POEA-SEC which states that "those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related."

Concomitant with such presumption is the burden placed upon the claimant to present substantial evidence that his working conditions caused or at least increased the risk of contracting the disease. Substantial evidence consists of such relevant evidence which a reasonable mind might accept as adequate to justify a conclusion that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions. Only a reasonable proof of work-connection, not direct causal relation is required to establish compensability of a non-occupational disease.

x x x x

Psoriasis comes from the Greek word "psora" which means itch. It is a common disfiguring and stigmatising skin disease associated with profound impaired quality of life. People with psoriasis typically have sharply demarcated erythematous plaques covered by silvery white scales, which most commonly appear on the elbows, knees, scalp, umbilicus, and lumbar area. Chronic plaque psoriasis (psoriasis vulgaris) is the most common type of the disease which manifests thru plaques of varying degrees of scaling, thickening and inflammation [on] the skin. The plaques are typically oval-shaped, of variable size and clearly distinct from adjacent normal skin.

As a result of the chronic, incurable nature of psoriasis, associated morbidity is significant. Patients in primary care and hospital settings have similar reductions in quality of life specifically in the functional, psychological and social dimensions. Symptoms specifically related to the skin (i.e., chronic itch, bleeding, scaling, nail involvement), problems related to treatments (mess, odor, inconvenience, time), arthritis, and the effect of living with a highly visible, disfiguring skin disease (difficulties with relationships, difficulties with securing employment, and poor self- esteem) all contribute to morbidity. About one in four patients experience major psychological distress, and the extent to which they feel socially stigmatized

and excluded is significant.

Current available treatments for the disease are reasonably effective as short-term therapy. Extended disease control is, however, difficult to achieve as the safety profile of most therapeutic agents limit their long-term use.

Until now, the exact cause of psoriasis remains a mystery. But several family studies have provided compelling evidence of a genetic predisposition to psoriasis, although the inheritance pattern is still unclear. Other environmental factors such as climate changes, physical trauma, infections of the upper respiratory tract, drugs, and stress may also trigger its onset or development.

After a circumspect evaluation of the conflicting medical certifications of Drs. Alegre and Fugoso, the Court finds that serious doubts pervade in the former. While both doctors gave a brief description of psoriasis, it was only Dr. Fugoso who categorically stated a factor that triggered the activity of the respondent's disease – stress, drug or alcohol intake, etc. **Dr. Alegre immediately concluded that it is not work-related on the basis merely of the absence of psoriasis in the schedule of compensable diseases in Sections 32 and 32-A of the POEA-SEC. Dr. Alegre failed to consider the varied factors the respondent could have been exposed to while on board the vessel.** At best, his certification was merely concerned with the examination of the respondent for purposes of diagnosis and treatment and not with the determination of his fitness to resume his work as a seafarer in stark contrast with the certification issued by Dr. Fugoso which categorically declared the respondent as "disabled." The certification of Dr. Alegre is, thus, inconclusive for purposes of determining the compensability of psoriasis under the POEA-SEC. Moreover, Dr. Alegre's specialization is General Surgery while Dr. Fugoso is a dermatologist, or one with specialized knowledge and expertise in skin conditions and diseases like psoriasis. Based on these observations, it is the Court's considered view that Dr. Fugoso's certification deserves greater weight.

It remains undisputed that the respondent used strong detergent, fabric conditioner, special soap and chemicals in performing his duties as a steward. Stress and climate changes likewise permeate his working environment as with that of any other seafarer. These factors, taken together with Dr. Fugoso's certification, confirm the existence of a reasonable connection between the nature of respondent's work and the onset of his psoriasis.

At any rate, even in the absence of an official finding by the company-designated physician or the respondent's own physician, he is deemed to have suffered permanent total disability pursuant to the following guidelines in *Fil-Star Maritime Corporation v. Rosete*, thus:

> Permanent disability is inability of a worker to perform his job for more than 120 days, regardless of whether or not he loses the use of any part of his body.
>
> Total disability, on the other hand, means the disablement of an employee to earn wages in the same kind of work of similar nature that he was trained for, or accustomed to

> perform, or any kind of work which a person of his mentality and attainments could do.
>
> A total disability does not require that the employee be completely disabled, or totally paralyzed. What is necessary is that the injury must be such that the employee cannot pursue his or her usual work and earn from it. A total disability is considered permanent if it lasts continuously for more than 120 days. x x x.
>
> It is undisputed that from the time the respondent was medically repatriated on October 7, 2005 he was unable to work for more than 120 days. In fact, Dr. Alegre's certification was issued only after 259 days with the respondent needing further medical treatments thus rendering him unable to pursue his customary work. **Despite the declaration in the medical reports that psoriasis is not contagious, no profit-minded employer will hire him considering the repulsive physical manifestation of the disease, its chronic nature, lack of long-term cure and the vulnerability of the patient to cardiovascular diseases and some cancers. Its inevitable impact [on] the respondent's chances of being hired and capacity to continue working as a seaman cannot be ignored. His permanent disability thus effectively became total in nature entitling him to permanent total disability benefits as correctly awarded by the LA and the CA**.[32] (Emphasis supplied)

Adopting the pronouncement in *Maersk* in its entirety and applying it to the present case, the Court finds that respondent's psoriasis and nummular eczema, which have not been cured, are work-connected and thus compensable. He is unfit to continue his duties as messman, as his illness prevents him from performing his functions as such. Up to this point, it does not appear that petitioners took him back to work for their principal, or that a declaration of fitness to work or that his condition has been resolved or cured has been issued. "[A]n employee's disability becomes permanent and total when so declared by the company-designated physician, or, in case of absence of such a declaration either of fitness or permanent total disability, upon the lapse of the 120 or 240-day treatment period under Article 192 (c) (1) of the Labor Code[33] and Rule X, Section 2 of the Amended Rules on Employees' Compensation Commission,[34] while the employee's disability continues and he is unable to engage in gainful

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32 Id. at 612-620.

33 Art. 192. Permanent total disability. – x x x
(c) The following disabilities shall be deemed total and permanent:
(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;
x x x

34 RULE X Temporary Total Disability
x x x x
Sec. 2. Period of entitlement. – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at anytime after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

employment during such period, and the company-designated physician fails to arrive at a definite assessment of the employee's fitness or disability. This is true regardless of whether the employee loses the use of any part of his body or if the injury or disability is classified as Grade 1 under the POEA-SEC."[35]

On the issue covering the pecuniary award, the Court finds the need to modify the award. Since respondent is entitled to a declaration of permanent total disability, the corresponding benefit attached thereto in the amount of US$60,000.00 should be given to him. This is in line with the *Maersk* pronouncement. Thus, on this score, both the NCMB and the CA patently erred. Besides, petitioners came to this Court arguing mainly that respondent should not be awarded indemnity because his illness is not work-connected and not compensable; alternatively, they contend that only the disability grading provided by the company-designated physician – that is, Dr. Cruz's January 21, 2008 recommendation of a Grade 12 disability rating – should be recognized.[36] Thus, apart from the issue of compensability, it became necessary for the Court to determine the *degree* of compensability; the facts further indicate that respondent's condition has not been resolved. The fact that respondent did not interpose a corresponding appeal is therefore of no moment. In any case, petitioner's "appeal, once accepted by this Court, throws the entire case open to review, and that this Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case."[37]

As compensability has been established, entitlement to attorney's fees follows since it is evident that respondent had to litigate to claim his rightful indemnity. On this score, the NCMB and the CA are correct in their pronouncements cited elsewhere herein; there is no need to further elaborate.

WHEREFORE, the Petition is **DENIED**. The assailed December 8, 2011 Decision and April 12, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 109238 are **AFFIRMED**, with the **MODIFICATION** that petitioners Grace Marine Shipping Corporation and/or Capt. Jimmy Boado are ordered to jointly and severally pay respondent Aron S. Alarcon the amounts of US$60,000.00 as disability compensation and US$6,000.00 as attorney's fees in Philippine pesos, computed at the exchange rate prevailing at the time of payment.

SO ORDERED.

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35 *Magsaysay Mitsui OSK Marine, Inc. v. Bengson*, G.R. No. 198528, October 13, 2014.

36 *Rollo*, p. 46.

37 *Barcelona v. Lim*, G.R. No. 189171, June 3, 2014, 724 SCRA 433, 461; *Carvajal v. Luzon Development Bank*, 692 Phil. 273, 282 (2012).

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson

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.

MARIA LOURDES P. A. SERENO
Chief Justice