



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MARLOW
PHILIPPINES,
NAVIGATION CO., LTD. and/or MS.
EILEEN MORALES,

NAVIGATION
INC./MARLOW
INC. and/or MS.

Petitioners,

G.R. No. 220168

Present:

- versus -

HEIRS OF RICARDO S. GANAL,
GEMMA B. BORAGAY, for her behalf
and in behalf of her minor children
named: RIGEM GANAL & IVAN
CHARLES GANAL; and CHARLES F.
GANAL, represented by SPOUSES
PROCOPIO & VICTORIA GANAL,
Respondents.

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,*
LEONEN,
MARTIRES,* JJ.

Promulgated:

07 JUN 2017

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DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* seeking the reversal and setting aside of the Decision¹ and Resolution² of the Court of Appeals (CA), dated February 25, 2015 and August 18, 2015, respectively, in CA-G.R. SP No. 133128. The assailed CA Decision reversed the October 21, 2013³ and November 21, 2013⁴ Resolutions of the National Labor Relations Commission (NLRC), which, in turn, affirmed the July 26, 2013 Decision⁵ of the Labor Arbiter (LA) in NLRC NCR OFW [M]-00-10-16061-

* On official leave.

¹ Penned by Associate Justice Jose C. Reyes, Jr., with the concurrence of Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr., Annex "A" to Petition; *rollo* pp. 41-49.

² Annex "B" to Petition; *id.* at 51.

³ Records, pp. 168-179.

⁴ *Id.* at 188-189.

⁵ *Id.* at 128-134.

12 and denied petitioners' subsequent Motion for Reconsideration.⁶ The LA Decision dismissed herein respondents' complaint for the payment of death and other benefits, salaries as well as damages.

The pertinent factual and procedural antecedents of the case are as follows:

On September 16, 2011, herein petitioners employed Ricardo Ganal (*Ganal*) as an oiler aboard the vessel *MV Stadt Hamburg* in accordance with the provisions of the Philippine Overseas Employment Administration (*POEA*)-Standard Employment Contract, which was executed by and between the parties. On September 20, 2011, he commenced his employment.

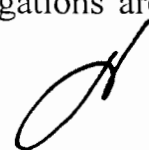
Around 7 o'clock in the evening of April 15, 2012, a party was organized for the crewmen of *MV Stadt Hamburg* while the ship was anchored at Chittagong, Bangladesh. After finishing his shift at 12 midnight, Ganal joined the party. Around 3 o'clock in the morning of April 16, 2012, the ship captain noticed that Ganal was already drunk so he directed him to return to his cabin and take a rest. Ganal ignored the ship captain's order. Thus, a ship officer, a security watchman and a member of the crew were summoned to escort Ganal to his cabin. The crew members attempted to accompany him back to his cabin but he refused. They then tried to restrain him but he resisted and, when he found the chance to escape, he ran towards the ship's railings and, without hesitation, jumped overboard and straight into the sea. The crew members immediately threw life rings into the water towards the direction where he jumped and the ship officer sounded a general alarm and several alarms thereafter. Contact was also made with the coast guard and the crew members searched for Ganal, to no avail. Ganal was later found dead and floating in the water. The subsequent medico-legal report issued by the Philippine National Police showed that the cause of his death was asphyxia by drowning.

Subsequently, Ganal's wife, Gemma Boragay (*Boragay*), for herself and in behalf of their minor children, filed a claim for death benefits with petitioners, but the latter denied the claim.

Thus, on October 29, 2012, Boragay, filed with the NLRC a complaint for recovery of death and other benefits, unpaid salaries for the remaining period of Ganal's contract, as well as moral and exemplary damages.

On July 26, 2013, the LA rendered a Decision dismissing the complaint for lack of merit. The LA held that respondents' allegations are

⁶ *Id.* at 180-185.



self-serving and hearsay; they failed to present evidence to substantiate their allegations; on the other hand, petitioners were able to present documentary evidence, consisting of affidavits of Ganal's fellow crew members who have direct and actual knowledge of what occurred on board the *MV Stadt Hamburg* and who attested to the fact that Ganal willfully jumped overboard. Nonetheless, the LA ordered herein petitioners to pay respondents the amount of US\$5,000.00 as financial assistance.

Aggrieved by the Decision of the LA, respondents filed an appeal with the NLRC.

On October 21, 2013, the NLRC issued a Resolution denying respondents' appeal and affirming the Decision of the LA. The NLRC ruled that petitioners have duly proven that Ganal's death is not compensable as it was the result of the deliberate and willful act of Ganal and, thus, is directly attributable to him.

Respondents filed a Motion for Reconsideration, but the NLRC denied it in its November 21, 2013 Resolution.

Respondents then filed a petition for *certiorari* with the CA.

On February 25, 2015, the CA rendered its assailed Decision which reversed the October 21, 2013 and November 21, 2013 Resolutions of the NLRC. The CA held that Ganal jumped into the sea while he was overcome by alcohol and completely intoxicated and deprived of his consciousness and mental faculties to comprehend the consequence of his own actions and keep in mind his own personal safety.

Petitioners filed a Motion for Reconsideration, but the CA denied it in its Resolution dated August 18, 2015.

Hence, the present petition for review on *certiorari* based on the following grounds, to wit:

I. PETITIONERS DULY PROVED BY SUBSTANTIAL EVIDENCE THAT SEAFARER GANAL VOLUNTARILY JUMPED INTO THE OPEN SEA. THUS, CONTRARY TO THE COURT OF APPEALS' FINDINGS, THE BURDEN OF PROOF IS SHIFTED TO THE RESPONDENTS TO SHOW THAT SEAFARER GANAL WAS NOT IN HIS OWN MENTAL FACULTIES WHEN HE COMMITTED SUCH ACT.

II. THE RULINGS OF THE LOWER LABOR TRIBUNALS, UNANIMOUSLY HOLDING THAT SEAFARER GANAL COMMITTED



SUICIDE, SHOULD HAVE BEEN UPHELD TO DENY THE RESPONDENTS' CLAIM FOR DEATH BENEFITS. INTOXICATION ALONE DID NOT SERVE TO RENDER INUTILE SEAFARER GANAL AS TO DEPRIVE HIM OF HIS FULL MENTAL FACULTIES EQUIVALENT TO INSANITY. SEAFARER GANAL, DESPITE HIS INTOXICATION, DELIBERATELY JUMPED INTO THE OPEN SEA CAUSING HIS INSTANTANEOUS DEATH.⁷

Petitioners' basic contention is that respondents are not entitled to death and other benefits, as well as damages, they are claiming by reason of the demise of their predecessor-in-interest during the effectivity of his contract of employment, because his death is directly attributable to him and was a result of his willful act.

The Court finds the petition meritorious.

At the outset, it bears to reiterate that in a petition for review on *certiorari*, this Court's jurisdiction is limited to reviewing errors of law in the absence of any showing that the factual findings complained of are devoid of support in the records or are glaringly erroneous.⁸ This Court is not a trier of facts, and this applies with greater force in labor cases.⁹ Findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality.¹⁰ They are binding upon this Court unless there is a showing of grave abuse of discretion or where it is clearly shown that they were arrived at arbitrarily or in utter disregard of the evidence on record.¹¹

However, it is equally settled that one of the exceptions to the above rule is when the factual findings of the quasi-judicial agencies concerned are conflicting or contrary with those of the CA.¹²

Considering that the factual findings of the LA and the NLRC are opposed to those of the CA, it behooves this Court to look into the evidence presented to resolve the present petition.

It is settled that the employment of seafarers, including claims for death benefits, is governed by the contracts they sign at the time of their

⁷ *Rollo*, pp. 19-20.

⁸ *Crewlink, Inc. v. Teringtering, et. al.*, 697 Phil. 302, 309 (2012).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *General Milling Corporation v. Viajar*, 702 Phil. 532, 540 (2013).

engagement.¹³ As long as the stipulations in said contracts are not contrary to law, morals, public order, or public policy, they have the force of law between the parties.¹⁴ Nonetheless, while the seafarer and his employer are governed by their mutual agreement, the POEA Rules and Regulations require that the POEA-Standard Employment Contract be integrated with every seafarer's contract.¹⁵

Thus, in case of death of the seafarer, Section 20(B) of the Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships, as amended in 2010, provides as follows:

B. COMPENSATION AND BENEFITS FOR DEATH

1. In case of work-related death of the seafarer, during the term of his contract, the employer shall pay his beneficiaries the Philippine currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional amount of Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.

2. Where death is caused by warlike activity while sailing within a declared war zone or war risk area, the compensation payable shall be doubled. The employer shall undertake appropriate war zone insurance coverage for this purpose.

3. It is understood and agreed that the benefits mentioned above shall be separate and distinct from, and will be in addition to whatever benefits which the seafarer is entitled to under Philippine laws from the Social Security System, Overseas Workers Welfare Administration, Employee's Compensation Commission, Philippine Health Insurance Corporation and Home Development Mutual Fund (Pag-IBIG Fund).

4. The other liabilities of the employer when the seafarer dies as a result of work-related injury or illness during the term of employment are as follows:

a. The employer shall pay the deceased's beneficiary all outstanding obligations due the seafarer under this Contract.

b. The employer shall transport the remains and personal effects of the seafarer to the Philippines at employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the master's best judgment. In all cases, the

¹³ *C.F. Sharp Crew Management, Inc., et al. v. Legal Heirs of the late Godofredo Repiso*, G.R. No. 190534, February 10, 2016.

¹⁴ *Id.*

¹⁵ *Id.*

employer/master shall communicate with the manning agency to advise for disposition of seafarer's remains.

c. The employer shall pay the beneficiaries of the seafarer the Philippine currency equivalent to the amount of One Thousand US dollars (US\$1,000) for burial expenses at the exchange rate prevailing during the time of payment.

Under the above-quoted provisions of the Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships, as amended, the death of a seafarer by reason of any work-related injury or illness during the term of his employment is compensable.

On the other hand, Section 20(D) of the same Standard Terms and Conditions states that:

D. No compensation and benefits shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act or intentional breach of his duties, provided however, that the employer can prove that such injury, incapacity, disability or death is directly attributable to the seafarer.

Also, under Article 172 of the Labor Code, which may also be made applicable to the present case, the compensation for workers covered by the Employees Compensation and State Insurance Fund are subject to the limitations on liability,¹⁶ to wit:

Art. 172. *Limitations of liability.* – The State Insurance Fund shall be liable for the compensation to the employee or his dependents except when the disability or death was occasioned by the employee's intoxication, willful intent to injure or kill himself or another, notorious negligence, or otherwise provided under this Title.

As defined under the above-cited Standard Terms and Conditions, work-related injury, or in this case, death, is any injury arising out of and in the course of employment.

The words "arising out of" refer to the origin or cause of the accident and are descriptive of its character, while the words "in the course of" refer to the time, place, and circumstances under which the accident takes place.¹⁷ By the use of these words, it was not the intention of the legislature to make the employer an insurer against all accidental injuries which might happen to

¹⁶ *Mabuhay Shipping Services, Inc. v. National Labor Relations Commission*, 271 Phil. 142, 147 (1991).

¹⁷ *Sy v. Philippine Transmarine Carriers, Inc., et. al.*, 703 Phil. 190, 199 (2013), citing *Iloilo Dock & Engineering Co. v. Workmen's Compensation Commission*, 135 Phil. 95, 110-113 (1968).

an employee while in the course of the employment, but only for such injuries arising from or growing out of the risks peculiar to the nature of work in the scope of the workmen's employment or incidental to such employment, and accidents in which it is possible to trace the injury to some risk or hazard to which the employee is exposed in a special degree by reason of such employment.¹⁸ Risks to which all persons similarly situated are equally exposed and not traceable in some special degree to the particular employment are excluded.¹⁹

In the present case, it may be conceded that the death of Ganal took place in the course of his employment, in that it happened at the time and at the place where he was working. However, the accident which produced this tragic result did not arise out of such employment. The occasion where Ganal took alcoholic beverages was a grill party organized by the ship officers of *MV Stadt Hamburg*. It was a social event and Ganal attended not because he was performing his duty as a seaman, but was doing an act for his own personal benefit. Even if the Court were to adopt a liberal view and consider the grill party as incidental to Ganal's work as a seaman, his death during such occasion may not be considered as having arisen out of his employment as it was the direct consequence of his decision to jump into the water without coercion nor compulsion from any of the ship officers or crew members. The hazardous nature of this act was not due specially to the nature of his employment. It was a risk to which any person on board the *MV Stadt Hamburg*, such as a passenger thereof or an ordinary visitor, would have been exposed had he, likewise, jumped into the sea, as Ganal had.

The necessary question that follows then is whether Ganal's act was willful. Considering his apparent intoxication, may Ganal's death, which resulted from his act of jumping overboard, be considered as directly attributable to him? Contrary to the findings of the CA, both the LA and the NLRC found and ruled in the affirmative. After a careful review of the records of the case, this Court agrees with the findings and ruling of the LA and the NLRC.

The Court agrees with the LA and the NLRC that the pieces of evidence presented by petitioners, consisting of the testimony of the crew members present at the time of the unfortunate incident,²⁰ as well as the accident report made by the master of the vessel,²¹ prove the willfulness of Ganal's acts which led to his death. The term "willful" means "voluntary and intentional", but not necessarily malicious.²² In the case of *Mabuhay*

¹⁸ *Amedo v. Olabarrieta*, 95 Phil. 33, 36 (1954), citing *Afable, et. al. v. Singer Sewing Machine, Co.*, 58 Phil. 39, 42 (1933).

¹⁹ *Id.*

²⁰ Records, pp. 89-91.

²¹ *Id.* at 88.

²² *Nieves v. Duldulao*, 731 Phil. 189, 199 (1954).



Shipping Services, Inc. v. National Labor Relations Commission,²³ the seaman, in a state of intoxication, ran amuck and committed an unlawful aggression against another, inflicting injury on the latter, so that in his own defense the latter fought back and in the process killed the seaman. This Court held that the circumstances of the death of the seaman could be categorized as a deliberate and willful act on his own life directly attributable to him. In the same manner, in the instant case, Ganal's act of intentionally jumping overboard, while in a state of intoxication, could be considered as a deliberate and willful act on his own life which is directly attributable to him.

Moreover, contrary to respondents' contention, petitioners took the necessary precautions when: (1) the ship captain advised Ganal to proceed to his cabin and take a rest; (2) Ganal was assisted by no less than three crew members who tried to persuade him to return to his cabin; (3) when he refused, the crew members tried to restrain him but he escaped and immediately ran away from them and, without warning, jumped into the sea. As earlier discussed, the law does not intend for an employer to be the insurer of all accidental injuries befalling an employee in the course of the latter's employment, but only for those which arise from or grow out of the risks necessarily associated with the workman's nature of work or incidental to his employment. Ganal's act of jumping overboard was not, in any way, connected with the performance of his duties as ship oiler. Neither could petitioners have reasonably anticipated such act on the part of Ganal. Thus, having proven their defense, the burden now rests on the shoulders of respondents to overcome petitioners' defense.

In its presently assailed Decision, the CA agreed with herein respondents and concluded that prior to jumping overboard, Ganal "was no longer in control of his actions because of excessive alcohol intake."²⁴ The Court, however, finds that this conclusion is not based on substantial evidence. The Court agrees with the Labor Arbiter and the NLRC that there was no competent proof to show that Ganal's state of intoxication during the said incident actually deprived him of his consciousness and mental faculties which would have enabled him to comprehend the consequences of his actions and keep in mind his personal safety. Respondents failed to present evidence to overcome the defense of petitioner and show that, prior to and at the time that he jumped overboard, Ganal was deprived of the use of his reason or that his will has been so impaired, by reason of his intoxication, as to characterize his actions as unintentional or involuntary. In fact, there is not even a *post mortem* report to indicate Ganal's blood alcohol concentration level at the time of his death as to give the lower tribunals or the courts an idea of how much alcohol Ganal was able to imbibe. Neither was there anything in the PNP medico-legal report which would indicate

²³ *Supra* note 16, at 146.

²⁴ See CA Decision, *rollo*, p. 46.

such blood alcohol content. There was also no affidavit from any of the ship officers or crew members, who witnessed the unfortunate incident, which would show that Ganal appeared to be distraught or out of his mind. Ganal may have become unruly by reason of his inebriation but such recalcitrant behavior does not necessarily prove that his subsequent act of jumping overboard was not willful on his part. Stated differently, the fact alone that he refused to be escorted to his cabin, that he resisted efforts by other crew members to restrain him and that he jumped overboard without hesitation or warning does not prove that he was not in full possession of his faculties as to characterize his acts as involuntary or unintentional.

This Court has held that even if it could be shown that a person drank intoxicating liquor, it is incumbent upon the person invoking drunkenness as a defense to show that said person was extremely drunk, as a person may take as much as several bottles of beer or several glasses of hard liquor and still remain sober and unaffected by the alcoholic drink.²⁵ It must be shown that the intoxication was the proximate cause of death or injury and the burden lies on him who raises drunkenness as a defense.²⁶ In the present case, the Court agrees with the LA and the NLRC that respondents failed in this respect.

Neither does the Court agree with the ruling of the CA that while herein petitioners were able to prove that Ganal jumped into the open sea while in a state of intoxication, they failed to meet the burden of proving that Ganal intended to terminate his own life. Petitioners do not carry the burden of establishing that Ganal had the intention of committing suicide. Petitioners' only burden is to prove that Ganal's acts are voluntary and willful and, if so, the former are exempt from liability as the latter becomes responsible for all the consequences of his actions.

Indeed, Ganal may have had no intention to end his own life. For all we know he was just being playful. Nonetheless, he acted with notorious negligence. Notorious negligence has been defined as something more than mere or simple negligence or contributory negligence; it signifies a deliberate act of the employee to disregard his own personal safety.²⁷ In any case, regardless of Ganal's motives, petitioners were able to prove that his act of jumping was willful on his part. Thus, petitioners should not be held responsible for the logical consequence of Ganal's act of jumping overboard.

As a final note, it is true that the beneficent provisions of the Standard Employment Contract are liberally construed in favor of Filipino seafarers

²⁵ *Nitura v. Employees' Compensation Commission*, 278 Phil. 302, 311 (1991).

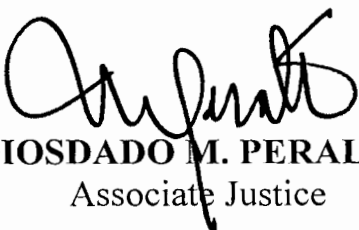
²⁶ *Id.*

²⁷ *Id.*


and their dependents.²⁸ The Court commiserates with respondents for the unfortunate fate that befell their loved one; however, the Court finds that the factual circumstances in this case do not justify the grant of death benefits as prayed for by them as beneficiaries.

WHEREFORE, the instant petition for review on *certiorari* is **GRANTED**. The assailed Decision and Resolution of the Court of Appeals, dated February 25, 2015 and August 18, 2015, respectively, are **SET ASIDE**. The October 21, 2013 and November 21, 2013 Resolutions of the National Labor Relations Commission in NLRC LAC No. 08-000774-13 (NLRC NCR OFW [M]-00-10-16061-12) are **REINSTATED**.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

On official leave
JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

On official leave
SAMUEL R. MARTIRES
Associate Justice

²⁸ *Great Southern Maritime Services, Corporation, et. al. v. Surigao, et. al.*, 616 Phil. 758, 767 (2009).

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, Second Division

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