Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JESSIE M. DOROTEO (Deceased), represented by his sister, LUCIDA D. HERMIS,
Petitioner,

- versus -

PHILIMARE INCORPORATED, BONIFACIO GOMEZ, and/or FIL CARGO SHIPPING CORP.,
Respondents.

G. R. No. 184917

x - x

PHILIMARE INCORPORATED, BONIFACIO GOMEZ, and/or FIL CARGO SHIPPING CORP.,
Petitioners,

- versus -

JESSIE M. DOROTEO (Deceased), represented by his sister, LUCIDA D. HERMIS,
Respondent.

G. R. No. 184932

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DECASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

MAR 13 2017

x - x

DECISION

SERENO, *CJ:*

For resolution by this Court is a consolidated case involving Jessie M. Doroteo, now deceased and represented by his sister, and his employer Philimare, Incorporated, a dispute springing from Doroteo's claims for disability and other monetary claims against Philimare.[1] G.R. No. 184917 is a petition filed by Doroteo contesting the Decision and Resolution of the

[1] *Rollo* (G.R. No. 184917), p. 5.

Court of Appeals (CA) dated 4 April 2008 and 9 October 2008 respectively, that partially granted damages to Doroteo in the amount of ₱300,000 but denied all other claims against Philimare.[2] G.R. No. 184932 is a petition filed by Philimare against the same Decision and Resolution, contesting the award of damages to Doroteo. The CA Decision and Resolution had partly granted Doroteo's petition against the Resolutions of the National Labor Relations Commission (NLRC) dated 28 February 2007[3] and 31 May 2007,[4] by awarding Doroteo damages in the amount of ₱300,000.00,[5] but affirming the rulings of the NLRC and Labor Arbiter.[6]

The facts of this case present a consensus of facts by both parties in respect of the most essential incidents.

Philimare is a local manning agency that hired Doroteo as an engineer on behalf of Fil-Cargo Shipping Corporation.[7] The contract of employment was executed on 13 February 2004 for a period of 3 months. Doroteo was assigned to the vessel M/V Tungenes on 24 February 2004.[8]

As the vessel passed through the coast of Spain between 25 March 2004 to 30 March 2004, petitioner claimed that he felt the engine room's temperature rising, and he drank cold water to cool himself.[9] On 30 March 2004 in Haiti, Doroteo felt pain in his throat and took antibiotics for five days on his own initiative to ease the pain.[10] Upon arrival at the Caribbean, he allegedly requested for a medical check-up at the hospital but was refused by the ship master.[11]

On 4 April 2004, he forced the ship master to allow him a medical check-up due to worsening pain and experiencing difficulty swallowing and breathing.[12] On 26 April 2004 he claimed to have been brought to a government hospital in Las Palmas in Europe, where he was only given antibiotics and a pain reliever since there were no specialists to attend to his needs.[13]

The vessel arrived in Denmark on 2 May 2004 and he again requested for a medical check-up.[14] A biopsy was conducted due to the presence of

---

[2] Id. at 605-616, 697-698; Penned by Justice Magdangal M. De Leon, with Justices Josefina Guevara-Salonga and Normandie B. Pizzaro concurring.
[3] Id. at 551-558; Penned by Commissioner Tito F. Genilo, with Presiding Commissioner Lourdes C. Javier and Gregorio O. Bilog, III concurring.
[4] Id. at 582-583; Penned by Commissioner Tito F. Genilo, with Presiding Commissioner Lourdes C. Javier and Gregorio O. Bilog, III concurring.
[5] Id. at 616.
[6] Id. at 264-274; Penned by Labor Arbiter Florentino R. Darlucio.
[7] Id. at 265.
[8] Id.
[9] Id.
[10] Id.
[11] Id. at 88.
[12] Id.
[13] Id.
[14] Id.

lymph nodes in his voice box.[15] On 3 May 2004, his condition deteriorated and a request for medicine with the ship master was denied due to a lack of antibiotics.[16] On 5 May 2004, Doroteo was subject to medical repatriation on order of Philimare and he arrived in the Philippines on 16 June 2004.[17]

Doroteo was examined by Philimare's physician, Dr. Emmanuel Cruz of Supercare Medical Services, Inc., on 23 June 2004, and was advised to undergo direct laryngoscopy and biopsy with possible tracheotomy due to possible laryngeal cancer, but did not come back to the company physician.[18]

Subsequently, Doroteo filed a Complaint on 3 November 2004 before the NLRC for non-payment of sick leave pay and disability/medical benefits.[19]

In his Position Paper dated 23 May 2005, Doroteo claimed that the company-designated physician refused to accord him the proper medication if he would not pay the amount of P200,000.[20] Thus, he shouldered the cost of his major surgery which consisted of a total laryngectomy and pectoralis major myocutaneous flap on 4 October 2004.[21] On 7 October 2004, he underwent tomography at St. Luke's Medical Center which showed that he had "laryngeal mass probably malignant."[22] St. Luke's issued a medical certificate finding him physically unfit for work.[23]

Philimare contested the claim, asserting that Doroteo's illness is not a compensable occupational disease because cancer of the larynx or voice box was primarily cause by excessive and repeated exposure to tobacco, either smoked or chewed, as well as alcohol consumption.[24] Hence, Philimare contended that the illness was not work-related and that the disease was present even before Doroteo's employment.[25] Moreover, Philimare decried Doroteo's failure to disclose his condition as a violation of his contract and equivalent to fraudulent misrepresentation.[26]

Before the resolution of the dispute, Doroteo died of cancer on 29 May 2005, and was substituted by his sister, Lucida Heramis.[27]

---

[15] Id.
[16] Id. at 88-89
[17] Id. at 89.
[18] Id. ,at 159.
[19] Id. at 83.
[20] Id. at 85.
[21] Id. at 89.
[22] Id. at 90.
[23] Id.
[24] Id. at 131.
[25] Id.
[26] Id. at 131-133.
[27] Id. at 176.

The Labor Arbiter decided on 7 September 2005 that Doroteo's cancer was not work-related and was a pre-existing illness.[28] It cited the fact that he was in the employ of Philimare for less than three months before he fell ill.[29] Based on the evidence presented by Philimare, the Labor Arbiter concluded that the cancer was acquired prior to Doroteo's employment.[30] Agreeing completely with Philimare, the Labor Arbiter likewise ruled that Doroteo violated his contract when he knowingly concealed his past medical condition, disability, and history of cancer.[31] In addition, the Labor Arbiter did not believe Doroteo's claim that the vessel he worked in was unseaworthy and that the engine room had no air exhaust, relying completely on the arguments and evidence presented by Philimare.[32] Finally, the Labor Arbiter rejected Doroteo's claims that he was not given immediate medical attention and cited the medical report of the doctor in Denmark and the medical certificate of Dr. Cruz who was the company-designated physician.[33] As a result, the Labor Arbiter dismissed the claim.[34]

The NLRC upheld the Labor Arbiter upon appeal and motion for reconsideration, essentially reiterating the decision of the Labor Arbiter on the same grounds.[35]

Doroteo's sister appealed to the CA, which ruled that the NLRC did not commit grave abuse of discretion when it decided that Doroteo's disease was not work-related and therefore non-compensable.[36] The appellate court noted that Doroteo's history as a heavy smoker and drinker was established by the record, and that the medical reports presented alongside the very short time of employment demonstrably proved that the cause of the disease was Doroteo's smoking habit and alcohol intake.[37] The CA however noted that the claims made by Philimare as to bad faith, fraud, and concealment of a disease on the part of Doroteo was inconsistent with the situation, since Doroteo was not a medical practitioner and could not be expected to know what ailed him.[38]

However, the CA found grave abuse of discretion on the part of the NLRC when it dismissed Doroteo's claim for damages based on the allegation that he was not given proper medical attention.[39]

For the court, it was clear that there were several instances when Doroteo was refused medical attention by the ship master, and when finally

---

[28] Id. at 268.
[29] Id. at 269.
[30] Id.
[31] Id. at 271.
[32] Id. at 272.
[33] Id. at 273.
[34] Id. at 274.
[35] Id. at 551-558.
[36] Id. at 612.
[37] Id. at 613.
[38] Id.
[39] Id. at 614.

allowed to be examined, was not given a thorough examination but merely provided pain-relief medication.[40] In fact, Philimare was unable to provide evidence that it immediately addressed Doroteo's health concerns, or any explanation for the delay.[41] To this the court ascribed bad faith on the part of Philimare because of the continued refusal by the ship master to provide all the necessary assistance to a sick person in its employ, in violation of article 161 of the Labor Code.[42]

Hence, for not providing immediate medical attention to Doroteo, the CA partly granted the petition and found Philimare liable for damages in the amount of ₱300,000.00.[43] It is this Decision and its subsequent affirmation that is being contested by both Doroteo's sister and Philimare before this Court.

In the petition of Doroteo's sister, she argues that the CA erred when it ruled that the cancer of Doroteo was not work-related. Specifically, she argues that the fact that Doroteo was declared fit to work by the company-designated physician contradicted the ruling that the disease was pre-existing.[44] Citing this Court's jurisprudence, she argues that every workman brings with him certain infirmities in health, and that the employer – while not the insurer of the employee's health – assumes the risk of having an employee with a weakened condition aggravate his injury during employment that would not have bothered a perfectly normal, healthy person.[45]

Moreover given the uncertainty as to the cause of cancer even by the standards of medical science, it would be unfair for the courts to require that an employee prove that the disease was caused by or aggravated by the conditions of employment.[46] She also cites United States jurisprudence to the effect that throat cancer is compensable for a fire-fighter who is exposed to heavy smoke, gases, and fumes,[47] and further argues that occupational or industrial diseases could be procured even within a short time.[48]

Finally, Doroteo's sister argues that assuming the cancer was pre-existing, the requirement of the law for compensability is that the disease was aggravated by working conditions such that its presence was work-related.[49] In support of this, she cited the American doctrine of "last injurious exposure," which allegedly assigns liability to the last employer whose conditions last contributed to the totality of the disease.[50] She also

---

[40] Id.
[41] Id. at 615.
[42] Id.
[43] Id. at 616.
[44] Id. at 22.
[45] Id.
[46] Id. at 23.
[47] Id. at 23-24.
[48] Id. at 25, 36-38.
[49] Id. at 25-29.
[50] Id. at 30-32.

disputed the statements of the CA and NLRC that alluded to Doroteo's smoking habit as the cause of his cancer, stating that there are several risk factors involved and that creating that presumption violated the constitutional mandate to protect labor.[51]

In response, Philimare reiterates its arguments before the CA: that throat cancer is not listed in the occupational diseases clause in the Philippine Overseas Employment Administration standard contract,[52] that the additional conditions for diseases not listed to be compensable were not satisfied,[53] and that there was no reasonable proof that the work of Doroteo increased his risk of contracting throat cancer.[54]

In sum, the case will live or die upon one question: did the work of Doroteo for Philimare result in or aggravate the throat cancer of which he died?

It appears that both parties are well aware of this crucial issue, and have presented their own evidence in support of their conclusions:

Doroteo's evidence explicitly states that working in an engine room exposes the worker to harmful conditions, including but not limited to chemical exposure and heat. Apart from this is the allegation that the engine room had poor exhaust which increased the heat therein, and most importantly the constant refusal of Philimare's ship master to allow Doroteo medical attention.

Philimare's evidence is broader and lists the risk factors for throat cancer: genetics, age, tobacco use, and alcohol consumption. It also relies on the diagnosis of the physician in Denmark that the cancer most likely existed for more than 3 months prior to the time of the check-up, such that it was a pre-existing illness. Contending with Doroteo's claims about the engine room, it presented a ship assessment that listed the engine room as compliant with safety standards.

To be sure, this Court has held that a worker brings with him possible infirmities in the course of his employment, and while the employer does not insure the health of the employees, he takes the employee as found and assumes the risk of liability.[55] However, claimants in compensation proceedings must show credible information that there is probably a relation between the illness and the work.[56] They cannot rely on the fact that the employer's designated physician had declared the employee fit pursuant to the pre-employment medical examination (PEME), since the PEME cannot

---

[51] Id. at 32.
[52] Id. at 730.
[53] Id. at 731.
[54] Id. at 732.
[55] *Remigio v. National Labor Relations Commission*, G.R. No. 159887, 521 PHIL 330-353(2006).
[56] *Magsaysay Maritime Corporation v. National Labor Relations Commission*, G.R. No. 186180, 630 PHIL 352-370 (2010).

be a conclusive proof that the seafarer was free from any ailment – and specifically for cancer - prior to his deployment.[57]

> The PEME is not exploratory in nature. It is not intended to be a totally in-depth and thorough examination of an applicant's medical condition. It merely determines whether one is "fit to work" at sea or "fit for sea service"; it does not state the real state of health of an applicant. Thus, we held in *NYK-FIL Ship Management, Inc. v. NLRC* as follows:
>
> While a PEME may reveal enough for the petitioner (vessel) to decide whether a seafarer is fit for overseas employment, it may not be relied upon to inform petitioners of a seafarer's true state of health. The PEME could not have divulged respondent's illness considering that the examinations were not exploratory.[58]

Cancer is an especially difficult illness to predict. Despite increased knowledge on risk factors, its causality is not determinable with any degree of certainty:

> In *Raro v. Employees' Compensation Commission,* we stated that medical science cannot, as yet, positively identify the causes of various types of cancer. It is a disease that strikes people in general. The nature of a person's employment appears to have no relevance. Cancer can strike a lowly paid laborer, or a highly paid executive, or one who works on land, in water, or in the bowels of the earth. It makes no difference whether the victim is employed or unemployed, a white collar employee or a blue collar worker, a housekeeper, an urban dweller or the resident of a rural area.
>
> By way of exception, certain cancers have reasonably been traced to or considered as strongly induced by specific causes. **For example, heavy doses of radiation (as in Chernobyl, USSR), cigarette smoke over a long period for lung cancer, certain chemicals for specific cancers, and asbestos dust, among others, are generally accepted as increasing the risks of contracting specific cancers**. In the absence of such clear and established empirical evidence, the law requires proof of causation or aggravation.[59] (Emphasis supplied)

As the aforementioned case states, there is strong evidence linking specific circumstances with specific cancers. In this case, however, there seems to be a no clarity. To recall, the cancer Doroteo succumbed to was throat or laryngeal cancer and not lung cancer, which is the cancer more commonly associated with heavy cigarette use. In the same vein, there was no definitive proof presented that the engine room of the M/V Tungenes had unreasonable amounts of carcinogenic chemicals, nor the presence of asbestos dust without proper safety equipment apart from the allegations made by Doroteo in the pleadings. In other words, the evidence of both sides lack the substance required to establish their respective claims.

---

[57] Supra.
[58] Id.
[59] *Government Service Insurance System v. Capacite*, G.R. No. 199780, 24 September 2014.

In *Sealanes Marine Services, Inc. v. National Labor Relations Commission*, we noted that under the 1996 POEA standard contract, proof that the working conditions increased the risk of a disease is not required for a seaman to claim the benefits under his employment contract for the illness acquired by seamen during the course of their employment.[60] Subsequently, the 2000 POEA standard contract was created which specifically required work-relation as a condition for compensation:

> Under Sec. 20(b), paragraph 6, of the 2000 POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, viz.:
>
> SEC. 20. Compensation and Benefits. —
>
> x x x x
>
> 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
>
> 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.
>
> Evident from the afore-quoted provision is that the permanent total or partial disability suffered by a seafarer during the term of his contract must be caused by work-related illness or injury. In other words, to be entitled to compensation and benefits under said provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled, but **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 for.**[61] (Emphases supplied)

This is consistent with the logic behind the court's interpretation of the 1996 POEA standard contract, hence several decisions denying compensability due to the illness proving to be pre-existing.[62] The prevailing rule under the 1996 POEA-SEC was that the illness leading to the eventual death of seafarer need not be shown to be work-related in order to be compensable, but must be proven to have been contracted during the term of the contract and not pre-existing.[63] The evolution of this rule for the 2000 POEA-SEC is that the illness is further required to be work-related, work-caused, or work-aggravated.[64]

---

[60] 268 Phil. 355-368 (1990).
[61] *Masangcay v. Trans-Global Maritime Agency, Inc.*, 590 PHIL 611-633 (2008).
[62] *NYK-Fil Ship Management Inc. v. National Labor Relations Commission*, 534 PHIL 725-740 (2006).
[63] *Inter-Orient Maritime, Inc. v. Candava*, G.R. No. 201251, 26 June 2013.
[64] *Quizora v. Denholm Crew Management (Philippines), Inc.*, 676 PHIL 313-329 (2011); *Francisco v. Bahia Shipping Services, Inc.*, 650 PHIL 200-207 (2010).

Therefore the evidence presents more questions than answers as to what caused Doroteo's throat cancer. Doroteo claims that the engine room was akin to a "gas chamber"[65] but did not give proof other than a generalized opinion about the risks present in engine rooms.[66] Philimare claims that the ship was given safety and health clearances, but submitted a certificate well past the date of Doroteo's employment.[67] Doroteo claims that he was exposed to noxious chemicals, but fails to substantiate this claim.[68] Philimare claims that Doroteo was a heavy tobacco and alcohol user, but fails to link its evidence to the specific cancer involved.[69] Doroteo presents opinions that allege the possibility of short-term acquisition of cancer.[70] Philimare presents a physician's diagnosis that the cancer seemed to have already existed more than 3 months prior to the examination.[71]

What these arguments show is that there is no clear nexus between the disease Doroteo acquired and the working conditions he encountered. Therefore, the disputable presumption of work-relation cannot be applied, since based on the evidence presented the Court cannot reasonably conclude that his work as an engineer in the engine room led to Doroteo's throat cancer.

We are not experts in the field of medicine and disease and have stated as much previously in *Jebsen Maritime, Inc. v. Ravena,* as follows:

> As a final word and a cautionary clarification, we do not here rule with absolute precision on the non-causing, non-aggravating, or non-contributing effect that any or all substances/chemicals and a processed-and-red-meat-rich diet may have on ampullary cancer. We are not experts on the matter and we recognize the considerable degree of uncertainty inherent in the field of medicine and its study. Our ruling on this petition should, therefore, be understood strictly in the light of and limited to the surrounding circumstances of this case.
>
> Stated differently, we declare that Ravena's ampullary cancer is not work-related, and therefore not compensable, because he failed to prove, by substantial evidence, its work-relatedness and his compliance with the parameters that the law had precisely set out in disability benefits claim. For, while we adhere to the principle of liberality in favour of the seafarer in construing the POEA-SEC, we cannot allow claims for disability compensation based on surmises. Liberal construction is never a license to disregard the evidence on record and to misapply the law.[72]

In as much as we condole with the family of Doroteo, the CA correctly denied his claims that his throat cancer was work-related or work-aggravated, and thus compensable.

---

[65] *Rollo* (G.R.. No. 184917), p. 40.
[66] Id. at 27-28.
[67] Id. at 2218-219.
[68] Id. at 25-28.
[69] Id. at 210.
[70] Id. at 25-32.
[71] Id. at 462.
[72] G.R. No. 200566, 17 September 2014.

However, the CA is equally correct in finding gross negligence on the part of Philimare.

Philimare failed to rebut the allegation made by Doroteo that on several instances, he was refused medical attention by the ship master.[73] In contention thereto, Philimare makes a simple assertion that it had allowed him a medical check-up in Denmark, and repatriated him to the Philippines to be checked by its physician, but did not specifically deny the accusation that the ship master had refused him treatment.[74] In fact, Philimare also failed to rebut Doroteo's claim that the physician asked him for ₱200,000.00 prior to rendering treatment.[75] The disregard shown by Philimare to Doroteo was uncontroverted. Understandably upset, he instead went to a different physician in St. Luke's Medical Center and underwent treatment there, which ultimately failed to save him from the ravages of cancer.[76] In sum, Philimare did not extend any help to its dying seaman both in the immediate time of need while he was still under its employ, and in the throes of his final moments. This is a clear case of gross negligence, tantamount to bad faith.

On this basis, the CA awarded moral damages to Doroteo. From the appellate court's appreciation of the established facts, Philimare clearly violated the provisions of the Labor Code, as well as the civil code provisions on the exercise of rights in good faith with proper legal reasoning.[77]

To this we strongly agree. Neglecting employee's immediate medical requirements has a legal consequence.[78] Hence the award of moral damages, as in the following case:

> We affirm the appellate court's finding that petitioners are guilty of negligence in failing to provide immediate medical attention to private respondent. It has been sufficiently established that, while the M/V T.A. VOYAGER was docked at the port of New Zealand, private respondent was taken ill, causing him to lose his memory and rendering him incapable of performing his work as radio officer of the vessel. The crew immediately notified the master of the vessel of private respondent's worsening condition. However, instead of disembarking private respondent so that he may receive immediate medical attention at a hospital in New Zealand or at a nearby port, the master of the vessel proceeded with the voyage, in total disregard of the urgency of private respondent's condition. Private respondent was kept on board without any medical attention whatsoever for the entire duration of the trip from New Zealand to the Philippines, a voyage of ten days. To make matters worse,

---

[73] *Rollo* (G.R. No. 184917), pp. 88-89.
[74] Id. at 130.
[75] Id. at 89.
[76] Id. at 119-128.
[77] Id. at 615.
[78] *Varorient Shipping Co., Inc. v. Flores*, 646 PHIL 570-587 (2010).

> when the vessel finally arrived in Manila, petitioners failed to directly disembark private respondent for immediate hospitalization. Private respondent was made to suffer a wait of several more hours until a vacant slot was available at the pier for the vessel to dock. It was only upon the insistence of private respondent's relatives that petitioners were compelled to disembark private respondent and finally commit him to a hospital. There is no doubt that the failure of petitioners to provide private respondent with the necessary medical care caused the rapid deterioration and inevitable worsening of the latter's condition, which eventually resulted in his sustaining a permanent disability.[79]

Moreover, exemplary damages are also proper.[80] In the same case, we awarded exemplary damages to the employee whose treatment was delayed by the ship captain without a valid ground:

> Meanwhile, exemplary damages are imposed by way of example or correction for the public good, pursuant to Article 2229 of the Civil Code. They are imposed not to enrich one party or impoverish another but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions. While exemplary damages cannot be recovered as a matter of right, they need not be proved, although plaintiff must show that he is entitled to moral, temperate, or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded. In quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence.[81]

Thus, apart from the CA's grant of moral damages in the amount of ₱300,000.00, we deem it apt to award exemplary damages in the amount of ₱100,000.00. In furtherance thereof, we also grant attorney's fees valued at 10% of the total monetary award in favor of Doroteo's heirs.[82]

WHEREFORE, the petition in G.R. No. 184932 is **DENIED**. The petition in G.R. No. 184917 is **PARTLY GRANTED.** Respondents Philimare, Inc., Bonifacio F. Gomez, and Fil Cargo Shipping Corp. are declared **LIABLE** for **MORAL DAMAGES** in the amount of **THREE HUNDRED THOUSAND PESOS (₱300,000.00), EXEMPLARY DAMAGES** in the amount of **ONE HUNDRED THOUSAND PESOS (₱100,000.00)**, and **10%** of the total monetary award in **ATTORNEY'S FEES**, and **DIRECTED** to pay the heirs of petitioner Jessie M. Doroteo the total amount immediately.

---

[79]German Marine Agencies, Inc. v. National Labor Relations Commission, G.R. No. 142049, [January 30, 2001], 403 PHIL 572-597

[80] ARTICLE 2231. In quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence (Civil Code of the Philippines, REPUBLIC ACT NO. 386, [June 18, 1949])

[81]German Marine Agencies, Inc. v. National Labor Relations Commission, G.R. No. 142049, [January 30, 2001], 403 PHIL 572-597

[82]In this particular case, attorney's fees are imposable for instances because exemplary damages are awarded, the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest, it is an action for indemnity under workmen's compensation and employer's liability laws, and because this is a case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered. (Article 2208, Civil Code of the Philippines, REPUBLIC ACT NO. 386, [June 18, 1949]

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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