



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

SKANFIL MARITIME
SERVICES, INC., and/or
CROWN
SHIPMANAGEMENT, INC.,
and/or JOSE MARIO C.
BUNAG,
Petitioners,

G.R. No. 227655

Present:

LEONEN, J., *Chairperson,*
PERLAS-BERNABE, S.A.J.,*
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

- versus -

ALMARIO M. CENTENO,
Respondent.

Promulgated:
April 27, 2022

X-----Ms. PDCBalt-----X

DECISION

LOPEZ, M., J.:

The Court resolves the petition by *certiorari* under Rule 45 of the Rules of Court, where Skanfil Maritime Services, Inc., (Skanfil), Crown Shipmanagement, Inc., and Jose Mario C. Bunag,** question the Court of Appeals' (CA) Decision¹ dated July 27, 2016, and Resolution² dated October 14, 2016, in CA-G.R. SP No. 144697. The assailed CA issuances awarded

* Designated additional Member in lieu of Associate Justice Amy C. Lazaro-Javier per Raffle dated July 8, 2020.

** Atty. Jose Mario C. Buñag in some parts of the *rollo*.

¹ *Rollo*, pp. 15-53. Penned by now Supreme Court Associate Justice Amy C. Lazaro-Javier, with the concurrence of Associate Justices Celia C. Libre-Leagogo and Melchor Q.C. Sadang.

² *Id.* at 35.

permanent disability benefits and damages³ in favor of Almario M. Centeno (Almario).

In March 2013, Skanfil, on behalf of its foreign principal Crown Shipmanagement, Inc., hired Almario as a mess person on board *M/V "DIMF" POS TOPAS*. On September 26, 2013, Almario fell from a seven-step ladder while performing the job. Almario lost consciousness and profusely bled at the back of the head. The crew administered first aid and brought Almario to a hospital in Japan. Thereat, Almario underwent an x-ray and a computed tomography scan. Almario was diagnosed with a blunt head injury, blunt back injury, lacerated scalp wound, and brain concussion. On October 2, 2013, Almario was repatriated to the Philippines.⁴

Skanfil referred Almario to the company-designated physicians, Dr. Hiyasmine Mangubat (Dr. Mangubat), Dr. Karen Frances Hao-Quan (Dr. Hao-Quan), Dr. Robert D. Lim, and Dr. Edwin Agsoay of the Marine Medical Services. The physicians assessed Almario's injury as "*S/P Suturing of Lacerated Wound on the Scalp, Fracture S3; Mild L3 - L4 Disc Bulge.*" Almario was also referred to, and treated by Dr. William Chuasuan, Jr. (Dr. Chuasuan), an orthopedic surgeon, and Dr. Wilson G. Sumpio (Dr. Sumpio), a neurosurgeon. During the periodic medical evaluations, Dr. Hao-Quan observed Almario's recurring pain in the lower hip area. The company doctor recommended that Almario continue with the rehabilitation and medications. Almario was also advised to return for another test and re-evaluation later.⁵ Meantime, Dr. Hao-Quan issued an interim assessment of Grade 8 - loss of 2/3 lifting power of the trunk.⁶ After weeks of treatment and rehabilitation, Dr. Chuasuan cleared Almario orthopedic-wise, and subsequently, by Dr. Sumpio from a neurosurgery standpoint. On February 7, 2014, Almario returned to the company designated physician, where Dr. Hao-Quan finally observed Almario's "functional trunk and hips range motion." The company doctor also noted that Almario has no further subjective complaints. On even date, Almario signed a Certificate of Fitness for Work, stating that Almario was "fit for duty."⁷ Dr. Hao-Quan also signed the certificate as a witness.⁸

Unconvinced, Almario consulted Dr. Manuel Fidel M. Magtira (Dr. Magtira) from the Department of Orthopedic Surgery and Traumatology at the Armed Forces of the Philippines Medical Center. Dr. Magtira declared that Almario lost pre-injury capacity and is permanently unfit to resume sea duties. On July 14, 2014, Almario filed a complaint against Skanfil for permanent disability benefits.⁹

³ In addition to US\$125,000.00 as permanent disability benefits, the CA awarded Almario with ₱30,000.00, as moral damages, ₱50,000.00, as exemplary damages and attorney's fees.

⁴ *Rollo*, pp. 17-18.

⁵ *Id.* at 172-181. See Medical Reports, Annexes "F," "G," "G-1," "H," "I," "J," "K," "L," "M," and "N."

⁶ *Id.* at 181. See Medical Report Annex "N."

⁷ *Id.* at 211. See Medical Report Annex "Q-3."

⁸ *Id.*

⁹ *Id.* at 225-226.

Decision of the Labor Arbiter

On July 31, 2015, the Labor Arbiter (LA) dismissed Almario's complaint for lack of merit. The LA noted that Almario's claim is premature. Almario failed to observe the mandatory third doctor appointment rule, given the conflicting findings of the company-designated physicians and Almario's physician of choice. The LA explained that Dr. Magtira's medical report could not be considered as an accurate assessment of Almario's illness since Almario was only examined once on June 16, 2014, or almost eight months after Almario's repatriation, and was unsupported by diagnostic tests and procedures.¹⁰ The LA found the results of the medical examinations conducted by the company-designated physicians more credible and plausible. The LA noted that the company-designated physicians properly conducted Almario's medical examinations and had personal knowledge of the medical condition since they closely monitored and checked Almario's progress, thus:

WHEREFORE, premises considered, the instant complaint against the respondents is hereby **DISMISSED** for lack of merit.

SO ORDERED.¹¹ (Emphases supplied.)

Ruling of the NLRC

On appeal, the National Labor Relations Commission (NLRC) in its Decision¹² dated November 16, 2015 in NLRC NCR Case No. (M) 07-08710-14 and NLRC LAC No. (OFW-M) 09-000786-15 affirmed the LA's findings. The NLRC stressed that the company-designated physicians were more qualified to assess Almario's medical condition and fitness to work since they possess personal knowledge of Almario's actual condition. Also, the company-designated physicians thoroughly examined and treated Almario from the time of the repatriation until Almario was cleared by both the neurosurgeon and the orthopedic surgeon. As opposed to Dr. Magtira, the company-designated physicians were better positioned to give a more accurate prognosis of Almario's injury.¹³ The NLRC also ruled that Almario's claim of compensability under the Collective Bargaining Agreement (CBA) must be rejected. The CBA titled "ITF and Bremer Bereederungsgesellschaft mbH & Co. KG," which Almario submitted before the LA, does not indicate that it applied to the crew of *M/V "DIMP" POS TOPAS*.¹⁴ Almario sought reconsideration but was denied.

¹⁰ Id. at 218-222; and 226-227.

¹¹ Id. at 222.

¹² Id. at 224-233. Penned by Commissioner Dolores M. Peralta-Beley, with the concurrence of Presiding Commissioner Grace E. Maniquez-Tan and Commissioner Mercedes R. Posada-Lacap.

¹³ Id. at 231-232.

¹⁴ Id. at 232. The dispositive portion of the NLRC decision provides:

WHEREFORE, premises considered, complainant's Appeal is **DENIED** for lack of merit. Accordingly, the Decision of Labor Arbiter Augusto L. Villanueva dated July 31, 2015 is **AFFIRMED**. **SO ORDERED.** (Id. Emphases in the original.)

Findings of the CA

Almario elevated the case to the CA, insisting that the NLRC acted with grave abuse of discretion in affirming the LA's decision based on doubtful, vague, and highly questionable assessments of the company-designated physicians. Almario averred that one of the company-designated physicians, Dr. Ramon Antonio Sarmiento (Dr. Sarmiento), a rehabilitation medicine specialist, declared that Almario was unfit to work and was advised to continue the therapy even after three months of initial physical therapy.¹⁵

On July 27, 2016, the CA reversed the findings of the NLRC and the LA. The CA gave credence to Almario's claim that Dr. Sarmiento was a company-designated physician. Dr. Sarmiento issued an "unfit to work" certification eight days after Dr. Hao-Quan issued the 10th and Final Report. Based on Dr. Sarmiento's recommendations, Almario should continue the physical therapy sessions.¹⁶ Consequently, there were no final and definitive assessments from the company-designated physicians.

Further, Dr. Sarmiento's assessment should prevail since it was the more recent declaration. The medical assessment of a third doctor was unnecessary because there were no inconsistencies between the findings of Dr. Sarmiento as a company-designated physician and Dr. Magtira as Almario's chosen physician. Almario's disability should be considered total and permanent because the company-designated physicians did not issue a definitive assessment within the prescribed period. The CA awarded permanent total disability benefits based on the CBA, moral and exemplary damages, and attorney's fees:

ACCORDINGLY, the petition is **GRANTED** and the Decision dated November 16, 2015 and Resolution dated December 28, 2015. **NULLIFIED**. Private respondents Skanfil Maritime Services, Inc., CROWN SHIPMANAGEMENT[,] INC., and JOSE MARIO BUNAG are ordered to jointly and solidarily pay petitioner:

1. US\$125,000.00, as permanent disability benefits;
2. [P]30,000.00, as moral damages;
3. [P]50,000.00, as exemplary damages; and
4. 10% of the total judgment award, as attorney's fees.

SO ORDERED.¹⁷ (Emphases in the original.)

Unsuccessful at a reconsideration, Skanfil elevated the case to the Court. Skanfil claims that Dr. Sarmiento is not a company-designated physician. Thus, the CA erred in reversing the factual findings of the NLRC and the LA based on the medical certification issued by Dr. Sarmiento. Further, the company-designated physicians, Dr. Hao-Quan and Dr. Lim, did

¹⁵ Id. at 94-95.

¹⁶ Id. at 23-24.

¹⁷ Id. at 32.

not refer Almario to Dr. Sarmiento.¹⁸ The CA also erred in awarding disability benefits under an alleged CBA because Skanfil was not a party to the alleged CBA. The CBA was between ITF and Bremer Bereederungsgesellschaft mbH & Co. KG. Besides, Almario failed to prove that the CBA applies in the case.¹⁹

In a comment,²⁰ Almario insists that the company-designated physician never declared a “fit to work” assessment. The 10th and Final Report was vague on whether Almario could resume the work as a seafarer.²¹ Almario’s clearance from the orthopedic’s standpoint is unclear whether Almario can resume the duties as a mess person which entails strenuous work.²² Almario maintains that even after the report was issued, Dr. Sarmiento found him unfit to work and was advised to continue the physical therapy after three months of initial physical therapy. Since there was no definite assessment of Almario’s fitness to work from the company-designated physicians, Almario is deemed totally and permanently disabled. The CA correctly ruled that there is no need to refer the case to a third doctor because there were no inconsistencies with the findings of Dr. Sarmiento and Dr. Magtira. Moreover, the Certificate of Fitness for Work is a quitclaim and should not be considered binding. Almario, as a seafarer, is in no position to agree or certify on medical matters.²³

In its reply,²⁴ Skanfil countered that it was able to prove that Dr. Sarmiento is not a company-designated physician. Skanfil asserts that the 10th and Final Report issued by Dr. Hao-Quan is a final and definitive assessment of Almario’s fitness. The neurosurgeon and the orthopedic surgeon who rendered medical services for Almario’s specific illness/injury are expected to keep within their bounds, and to the illness that was referred to them for treatment.

ISSUES

The issues may be summarized as follows:

- 1) Whether Almario is entitled to permanent total disability benefits, moral and exemplary damages, and attorney’s fees; and
- 2) Whether the CBA provision awarding a higher amount of disability benefits is applicable

¹⁸ Id. at 48-49.

¹⁹ Id. at 56-58.

²⁰ Id. at 243-264.

²¹ Id. at 254.

²² Id. at 255.

²³ Id. at 258.

²⁴ Id. at 267-277.

RULING

Prefatorily, the Court stresses that the CA may review NLRC decisions only through a special civil action for *certiorari* under Rule 65 of the Rules of Court on the ground of grave abuse of discretion amounting to lack, or excess of jurisdiction. The review is limited to whether the NLRC acted arbitrarily, whimsically, or capriciously, and does not entail looking into the correctness of the judgment on the merits. Necessarily, when the case is elevated to the Court through a petition for review on *certiorari* under Rule 45, the contentious issue would be a question of law whether the NLRC acted with grave abuse of discretion in rendering its judgment.²⁵ In essence, the Court is tasked to determine whether the CA correctly found grave abuse of discretion when the NLRC ruled that Almario was not entitled to the claim for permanent disability benefits.

The Court finds the petition partly meritorious.

The company-designated physicians failed to issue a valid medical assessment within 120 days from Almario's repatriation. Consequently, Almario's disability is considered permanent and total.

The seafarer's entitlement to disability benefits is governed by the law, the parties' contracts, and the medical findings.²⁶ Under Section 20 (A) of the 2010 Philippine Overseas Employment Administration-Standard Employment Contract (2010 POEA-SEC), the employer must compensate the seafarer for work-related injuries and illnesses subject to conditions. The seafarer must timely report to the company-designated physician upon repatriation. In contrast, the company-designated physician must determine whether the seafarer is fit to work, or the degree of disability has been evaluated. The 2010 POEA-SEC also provides the conflict resolution mechanism if the seafarer disagrees with the findings of the company-designated physicians:

SEC. 20. COMPENSATION AND BENEFITS

A. 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

²⁵ *Riingen v. Western Union Financial Services (Hong Kong) Limited, Philippines Representative Office*, G.R. No. 252716, March 3, 2021. < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67491> >

²⁶ *Razonable v. Maersk-Filipinas Crewing, Inc.*, G.R. No. 241674, June 10, 2020, < <https://elibrary.judiciary.gov.ph/thebookshelf/docinonth/Jan/2020/1> >

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3. In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall be made on a regular basis, but not less than once a month.

x x x x

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

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 his 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.

x x x x

In *Elburg Shipmanagement Phil., Inc. v. Quioge, Jr.*,²⁷ the Court summarized the rules on the prescribed period for the company-designated physician to issue a final medical assessment and the consequence for failure to observe these periods:

1. The company-designated physician must issue a final medical assessment on the seafarer's disability grading within a period of 120 days from the time the seafarer reported to him;
2. If the company-designated physician fails to give his assessment within the period of 120 days, without any justifiable reason, then the seafarer's disability becomes permanent and total;
3. If the company-designated physician fails to give his assessment within the period of 120 days with a sufficient justification (e.g., seafarer required further medical treatment or seafarer was uncooperative), then the period of diagnosis and treatment shall be extended to 240 days. The

²⁷ 765 Phil. 341 (2015).

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employer has the burden to prove that the company-designated physician has sufficient justification to extend the period; and

4. If the company-designated physician still fails to give his assessment within the extended period of 240 days, then the seafarer's disability becomes permanent and total, regardless of any justification.²⁸

In *Pastrana v. Bahia Shipping Services*,²⁹ the Court clarified that the 120 days must be reckoned "from the date of the seafarer's repatriation."³⁰

In *Razonable v. Maersk-Filipinas Crewing, Inc.*,³¹ the Court reiterated that the medical assessment must be final, conclusive, and definite. The assessment must clearly state whether the seafarer is fit to work, or the exact disability rating, or whether such illness is work-related and without any further condition or treatment. It should no longer require any further action on the part of the company-designated physician, and it is issued by the company-designated physician after he or she has exhausted all possible treatment options within the periods allowed by law.³² In *Ampo-on v. Reinier Pacific International Shipping, Inc.*,³³ the Court held that a medical assessment that is not complete and definite must be ignored. The seafarer has nothing to contest in the absence of a final and valid medical assessment. The conflict resolution mechanism of referring the findings of the company-designated physician to the seafarer's physician of choice is unnecessary.³⁴

Here, Almario was medically repatriated on October 2, 2013, and submitted for post-medical examination by the company-designated physicians. Dr. Hao-Quan and Dr. Lim initially examined Almario,³⁵ and referred him to other specialists to address the specific concerns. Almario was referred to Dr. Sumpio (neurosurgeon), and Dr. Chuasuan (orthopedic surgeon), because Almario sustained head and back injuries.³⁶ The specialists treated Almario, prescribed medications, and assisted in the rehabilitation. Following the cases of *Elburg* and *Pastrana*, the company-designated physicians must issue a final and valid medical assessment within 120 days reckoned from October 2, 2013, or the date when Almario was repatriated. The company-designated physicians had until January 30, 2014, to issue the assessment unless there was a justifiable reason to extend the period. Otherwise, Almario's disability must be deemed permanent and total.

²⁸ *Elburg Shipmanagement Phils., Inc. v. Quioge, Jr.*, id. at 362-363.

²⁹ G.R. No. 227419, June 10, 2020,
<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/June/2020/1>>

³⁰ *Razonable v. Maersk-Filipinos Crewing, Inc.*, G.R. No. 241674, June 10, 2020,
<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/June/2020/1>>

³¹ G.R. No. 241674, June 10, 2020,
<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/June/2020/1>>

³² *Razonable v. Maersk-Filipinas Crewing, Inc.*, id.

³³ G.R. No. 240614, June 10, 2019,
<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/June/2019/1>>

³⁴ *Ampo-on v. Reinier Pacific International Shipping, Inc.*, G.R. No. 240614, June 10, 2019, id.

³⁵ *Rollo*, pp. 170-172. See Annexes "E," "E-1," and "F."

³⁶ Id. at 209-210. See Annexes "Q-1," and "Q-2."

The 10th and Final Report was issued on February 7, 2014, or eight days beyond the prescribed period. However, the company-designated physicians failed to justify why the assessment must be issued beyond 120 days. Senior Associate Justice Estela Perlas-Bernabe and Associate Justice Marvic M.V.F. Leonen aptly observed that the company-designated physicians failed to explain in detail the progress of Almario's treatment and approximate recovery period warranting further medical treatment beyond the 120-day prescribed period. Thus, the 10th and Final Report beyond 120 days is unjustified. Following *Elburg*, Almario's disability is deemed permanent and total upon the lapse of 120 days. Article 198 (c) (1) of the Labor Code becomes operative:³⁷

Article 198. *Permanent Total Disability.* x x x

x 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;**

Moreover, the 10th and Final Report is not final and valid medical assessment. It did not categorically state that Almario is fit to work. The report states:

This is a follow-up report on [Mess person] Almario M. Centeno who was initially seen here at Marine Medical Services on October 8, 2013[,] and was diagnosed to have S/P Suturing of Lacerated Wound on the Scalp; Fracture, 3rd Sacrum; Mild L3 - L4 Disc Bulge.

He was previously cleared by the Neurosurgeon.

He was seen by the Orthopedic Surgeon today.

Patient has no subjective complaints at present.

There is note of functional trunk and hips range of motion.

The specialist opines that patient is now cleared orthopedic wise effective as of February 7, 2014.

He was advised proper back mechanics to prevent/minimize recurrence of his back pain.

Enclosed are the comments of the specialists.

³⁷ *Ampo-on v. Reinier Pacific International Shipping, Inc.*, G.R. No. 240614, June 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Jun/2019/1> >

Final Diagnosis – S/P Suturing of Lacerated Wound on the Scalp.
Fracture, 3rd Sacrum
Mild L3 - L4 Disc Bulge

Very Truly Yours,

(Sgd.)

Karen Frances Hao-Quan, M.D.
Asst. Medical Coordinator³⁸

10th and Final Report

As can be gleaned from the report, the company-designated physician did not categorically state that Almario was fit to work after the treatment. Instead, it contains advice for “*proper back mechanics to prevent/minimize recurrence of his back pain,*” which suggests that Almario’s back pain was not fully resolved. Generic statements on Almario’s condition, such as “[*Almario*] *was previously cleared*” and “*patient is now cleared orthopedic wise,*” did not make the assessment definitive.

In *Lemoncito v. BSM Crew Service Centre Philippines, Inc.*,³⁹ a medical assessment stating that the “*petitioner’s blood pressure is adequately controlled with medications,*” and “*patient is now cleared cardiac wise,*” is considered too generic and equivocal on whether the seafarer has a clean bill of health. A medical assessment that does not reflect the true extent of the seafarer’s sickness or injury and their capacity to resume work is incomplete and indefinite.⁴⁰ This type of assessment must be ignored and set aside.⁴¹

Moreover, the Certificate of Fitness for Work is not conclusive on Almario’s state of health. The certificate was executed by Almario, a seafarer who has no expertise in the medical field. The certificate stating that Almario is “fit for duty” should have been executed by the company-designated physician. Dr. Hao-Quan’s signature on the certificate was in capacity as a witness, and not as a doctor. The certificate is reproduced as follows:

CERTIFICATE OF FITNESS FOR WORK

I, Almario M. Centeno, for myself and my heirs, do hereby release Skanfil Maritime Svs., Inc. of all actions, claims, demands, etc., in connection with being released on this date as fit for duty.

In recognizing this Certificate of Fitness for Work, I hold x x x Skanfil Maritime Svs., Inc. free from all liabilities as consequence thereof.

³⁸ *Rollo*, p. 208.

³⁹ G.R. No. 247409, February 3, 2020.
<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Feb/2020/1>>

⁴⁰ See *Ampo-on v. Reinier Pacific International Shipping, Inc.*, G.R. No. 240614, June 10, 2019,
<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Jun/2019/1>>

⁴¹ See *Ampo-on v. Reinier Pacific International Shipping, Inc.*, id.

Finally, I hereby declare that this Certificate of Fitness for Work may be pleaded in bar [of] any proceedings of the law that may be taken by any government agency, and I do promise to defend the right of x x x Skanfil Maritime Svs., Inc. x x x in connection with this Certificate of Fitness for Work.

Witness my hand this 7th day of February 2014 in the City of Manila, Philippines.

(Sgd.)

Almario M. Centeno

Name of Vessel: Pos Topas

Nature of Illness or Injury:

S/P Suturing of Lacerated Wound on Scalp;
Fracture, 3rd Sacrum; Mild L3 - L4 Disc Bulge

Date of Fit to Work: February 7, 2014

(Sgd.)

Witness: Karen Frances Hao-Quan, M.D, Marine Medical Services

[Ako], Almario M. Centeno, [ay nagsasaad na ang bahagi ng salaysay naito ay aking nabasa at ang nasabi ay naipaliwanag sa akin sa salitang aking naintindihan. Ito pa rin ay katunayan na ang aking pagsangayon sa nasabi ay aking sarili at kusang kagustuhan, at hindi bunga ng anumang pangako, pagkukunwari o pagpilit ng sunumang may kinalaman sa mga nasasaad na usapin].

[Katunayan, aking nilagdaan ang pagpapahayag nitomg ika-7 ng Pebrero 2014 sa] Manila.

(Sgd.)

Almario M. Centeno⁴²

Verily, the 10th and Final Report and the Certificate of Fitness for Work are not final and valid assessments. They are incomplete and not definitive of Almario's state of health and capacity to resume work. Most importantly, they were issued beyond the prescribed period. Consequently, Almario's disability is considered permanent and total. Almario was not even required to refer the company-designated physician's findings to his chosen physician because there is no medical assessment to contest. Thus, it is unnecessary to discuss whether Dr. Sarmiento was among the company-designated physicians, and talk about the value of Dr. Sarmiento's medical findings.

The amount of disability benefits based on the CBA is applicable.

⁴² Rollo, p. 211. See Annex "Q-3."

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The CA found that the CBA provisions are applicable:

As for petitioner's coverage under the CBA between "ITF and Bremer Bereederungsgesellschaft mbH & Co. KG[.]" the same is undisputed. The Occurrence Report dated September 27, 2013 pertaining to petitioner's injury on board was written, signed, and submitted by Capt. M. Martynenko of M/V POS TOPAS using the header, "BBG-Bereederungsgesellschaft mbH & Co. KG[.]" the party representing private respondents in their CBA with the [seafarer] concerned, including petitioner.⁴³ x x x. (Citation omitted.)

x x x x

Skanfil argues that it is not a party to the CBA, and is not bound by its provisions. The CBA is between ITF and Bremer Bereederungsgesellschaft mbH & Co. KG. The Court is unconvinced. The CA categorically found that Skanfil and Crown Shipmanagement, Inc. are represented by Bremer Bereederungsgesellschaft mbH & Co. KG in the CBA with the seafarers, but Skanfil did not deny this finding. Skanfil did not address the CA's observation that the captain of M/V POS TOPAS used the header of BBG-Bereederungsgesellschaft mbH & Co. KG, and whether the captain merely erred in using the header. The use of the header belies Skanfil's claim that the CBA does not bind it.

The awards for moral and exemplary damages should be deleted, but the attorney's fees should be retained.

In *Chan v. Magsaysay Corporation*,⁴⁴ the Court explained the nature of moral and exemplary damages:

Moral damages are awarded as compensation for actual injury suffered and not as a penalty. The award is proper when the employer's action was attended by bad faith or fraud, oppressive to labor, or done in a manner contrary to morals, good customs, or public policy. Bad faith is not simply bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of wrong. It means a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud.

Exemplary damages, on the other hand 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, and may only be awarded in addition to the moral, temperate, liquidated or compensatory damages. In contracts and quasi-contracts, the court may award exemplary

⁴³ Id. at 27

⁴⁴ G.R. No. 239055, March 11, 2020.

<<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Mar/2020/1>>

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damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner⁴⁵ (Citations omitted.)

Here, the CA awarded moral damages because of the alleged refusal of Skanfil to pay the disability benefits despite Dr. Sarmiento's certification that Almario is unfit for work. However, it is insufficient to conclude whether Skanfil's actions are tainted with bad faith that would partake the nature of fraud. Here, Skanfil never evaded its liability of providing medical attention. Almario was referred to a neurosurgeon and an orthopedic surgeon to address his medical condition. What is clear here is a difference of opinion on the status of Almario's medical condition and Skanfil's failure to issue a timely and valid medical assessment. In the absence of substantial evidence showing malice or bad faith in refusing the seafarer's claim for disability benefits, moral and exemplary damages should not be awarded.⁴⁶

However, the award of attorney's fees is proper. Article 2208 (8) of the Civil Code provides that attorney's fees may be recovered "[i]n actions for indemnity under workmen's compensation and employer's liability laws."⁴⁷

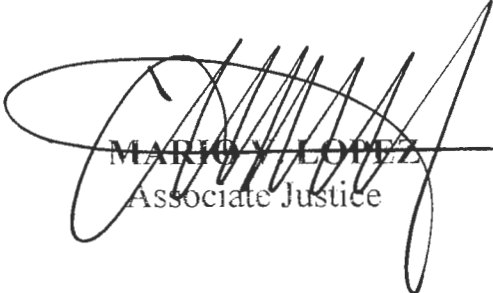
Following *Nacar v. Gallery Frames*,⁴⁸ a legal interest of (6%) *per annum* is imposed on the total monetary awards until complete payment.

FOR THESE REASONS, the petition is **DENIED**. The Court of Appeals' Decision dated July 27, 2016, and Resolution dated October 14, 2016, in CA – G.R. SP No. 144697 are **AFFIRMED WITH MODIFICATION**. Skanfil Maritime Services, Inc., Crown Shipmanagement, Inc., and Jose Mario C. Bunag are jointly and solidarily liable to pay Almario M. Centeno the following amounts:

1. US\$125,000.00 as permanent total disability benefits; and
2. 10% of the total judgment award as attorney's fees

The awards for moral and exemplary damages are **DELETED**. The total monetary awards shall earn legal interest at (6%) *per annum* from the finality of this Decision until complete payment.

SO ORDERED.


MARIO Y. LOPEZ
Associate Justice

⁴⁵ *Chan v. Magsaysay Corporation*, id.

⁴⁶ *Chan v. Magsaysay Corporation*, id.

⁴⁷ See *Pastor v. Bibby Shipping Philippines, Inc.*, G.R. No. 238842, November 19, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Nov/2018/1>>

⁴⁸ 716 Phil. 267 (2013).

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Senior Associate Justice


JHOSEPH V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
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.


ALEXANDER G. GESMUNDO
Chief Justice