Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RAEGAR B. LEDESMA, Petitioner,	**G.R. No. 241067**
	Present:
- versus -	GESMUNDO, *C.J., Chairperson,* HERNANDO, ZALAMEDA, ROSARIO, and MARQUEZ,* *JJ.*
C.F. SHARP CREW MANAGEMENT, INC., and/or PRESTIGE CRUISE SERVICES, LLC/PRESTIGE CRUISE HOLDINGS, INC.,[1] and GERONIMO F. CAIDIC,[2] Respondents.	Promulgated: OCT 05 2022

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DECISION

GESMUNDO, *C.J.*:

It is not sufficient for seafarers to merely allege that their illness is listed as an occupational disease under Section 32-A of the Philippine Overseas Employment Administration-Standard Employment Contract *(POEA-SEC)*. They are required to establish by substantial evidence that their illness is either

* On official leave.

[1] Also referred to as "CF Sharp Crew Management, Inc., Prestige Cruise Services, LLC./Prestige Cruise Holdings, SA, Inc." (see *rollo*, pp. 3, 31-A); "C.F Sharp Crew Management, Inc., and/or Prestige Cruise Services, Inc." (see *rollo*, pp. 32, 639); "CF Sharp Crew Management, Inc. and/or Prestige Cruise Services, Inc." (see *rollo*, p. 652).

[2] Also referred to as "Geronimo F. Cadic" in some parts of the *rollo* (see *rollo*, p. 321).

connected to their work, or aggravated by their working conditions to validly claim for compensation.

On the part of the voluntary arbitrators, they are mandated to provide for an expeditious and effective mode to resolve labor disputes. Hence, in the event that the medical opinions of the company doctor and the seafarer's personal physician are conflicting, the voluntary arbitrators should refer the parties to a third doctor under Sec. 20 of the POEA-SEC if such option had not yet been availed of by the parties, or when the request by the seafarer was refused or ignored by the employer.

Before the Court is an Appeal by *Certiorari*,[3] seeking to reverse and set aside the February 28, 2018 Decision[4] and the July 27, 2018 Resolution[5] of the Court of Appeals *(CA)* in CA-G.R. SP No. 151396. The CA reversed and set aside the November 18, 2016 Decision[6] and the May 31, 2017 Resolution[7] of the Panel of Voluntary Arbitrators *(PVA)*, in MVA-100-RCMB-NCR-043-03-03-2016, which awarded Raegar B. Ledesma *(petitioner)* with total and permanent disability benefits.

The Antecedents

On September 15, 2014, petitioner signed a seven-month employment contract under the POEA-SEC with respondent C.F. Sharp Crew Management, Inc., for and on behalf of its principal, Prestige Cruise Services, LLC/Prestige Cruise Holdings, Inc., as Chief Fireman for the vessel M/V Regatta.[8] His duties and responsibilities were as follows:

- Report to the Safety Officer and to the Staff Captain
- Be a [firefighting] team leader
- Be [r]esponsible for the maintenance and proper functioning of all firefighting equipment aboard the vessel
- Respond also to medical emergencies and [provide] first aid until arrival of a dedicated medical officer

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[3] *Rollo*, pp. 32-83.
[4] Id. at 9-22; penned by Presiding Justice Romeo F. Barza and concurred in by Associate Justices Stephen C. Cruz and Carmelita Salandanan Manahan.
[5] Id. at 24-26.
[6] Id. at 321-335; signed by MVA Edgar P. Fernando and MVA Gregorio C. Biares, Jr., with Dissenting Opinion of MVA George A. Eduvala.
[7] Id. at 372-373.
[8] Id. at 139.

- Prepare the fire drill and training of ship's firefighting parties and[,] in conjunction with the Safety Officer[, prepare] the weekly familiarization and safety meetings for all sign on crew
- Conduct the fire prevention and firefighting familiarization training of all joining crew members
- Enter fire training and drills into the logbook
- Ensure that all fire-extinguishing appliances (both stationary or portable) are in accordance with the regulations and available for immediate use
- Ensure that the maintenance of all deck equipment is in accordance with the safety regulations in [regard] to fire hazards including the ship's tenders, lifeboats and rescue boats
- Evaluate and prevent potential fire hazards in order to improve the ship's fire prevention and control standards
- Conduct crew cabin inspections (crew rounds) as required by the Staff Captain[.][9]

Before his deployment, petitioner underwent a pre-employment medical examination and was declared fit for sea duty by the company-designated physician. On September 17, 2014, petitioner boarded the vessel.[10]

Sometime in March 2015, petitioner experienced drowsiness, lightheadedness, easy fatigability, shortness of breath, clogged nose, and sore throat. His crewmates also informed him that he was snoring loudly while sleeping. Upon consulting with the ship doctor, he was diagnosed to be suffering from obstructive sleep apnea, hypertension, and probable congestive heart failure and was given the corresponding medications.[11]

Upon reaching a port in South Miami, Florida in the United States on April 7, 2015, petitioner was sent to South Miami Hospital. After medical evaluation and conduct of laboratory tests, he was diagnosed with diabetes mellitus and was prescribed with medications. He was then repatriated due to medical reason.[12]

Upon his arrival in the Philippines on April 13, 2015, petitioner immediately reported to the company-designated physician, Dr. Esther G. Go *(Dr. Go)* of Marine Medical Services, for medical evaluation and treatment.

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[9] Id. at 110-111.
[10] Id. at 10.
[11] Id.
[12] Id. at 10 and 41.

Since he was found to have diabetes mellitus, hypertension, and chronic tonsillitis with features of obstructive sleep apnea, petitioner was recommended for S/P tonsillectomy, bilateral and was also prescribed with several medications. He was endorsed to another company-designated physician at Cardinal Santos Medical Center, where he underwent S/P tonsillectomy, bilateral *via* Ellman radiofrequency and closure of pillars and oropharynx.[13]

After undergoing sleep study for further evaluation of his sleep apnea, petitioner was confirmed to have obstructive sleep apnea-hypoapnea syndrome, severe; rapid eye movement *(REM)*-related parasomnia. He was recommended to undergo continuous positive airway pressure *(CPAP)* therapy, a non-surgical and non-invasive treatment that utilizes a machine to help him breathe easier during sleep, decrease daytime sleepiness, and help lower blood pressure. He was also provided with a CPAP machine and was advised to continue his medications, to exercise regularly, and to avoid caffeine, tobacco, alcohol, and eating big meals close to bedtime.[14]

On July 31, 2015, Dr. Go issued a Final Medical Report[15] clearing petitioner from diabetologic standpoint, with the advice to continue taking his maintenance medications. Petitioner was also advised to continue using the CPAP machine to manage his sleep apnea. The medical report likewise contained the following opinion:

> The specialist opines that patient had already reached maximum medical improvement and patient is not unfit for further sea duties due to risk of apneic episode and cardiac arrhythmia for his Obstructive Sleep Apnea.
>
> If patient is entitled to a disability, his suggested disability grading is Grade 12 – slight residual or disorder.[16]

On August 6, 2015, Dr. Go issued another Medical Report[17] stating that diabetes mellitus is usually familial or hereditary, being a metabolic disorder where an individual gains weight even to the point of obesity leading to insulin resistance and inability of the body to utilize blood sugar available for cell or organ metabolism. She added that obstructive sleep apnea is caused by airway destruction with pauses in breathing during sleep, the risk factors of which

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[13] Id. at 11.
[14] Id.
[15] Id. at 239-240.
[16] Id. at 240.
[17] Id. at 241.

include overweight/obesity, small receding jaw, and short neck. She also stated that chronic tonsillitis is a recurrent infection of the tonsils leading to hypertrophic tonsils and can aggravate obstructive sleep apnea. She opined that the said conditions are neither work-related nor work-aggravated, and that while there are several causes of hypertension, such as genetic predisposition, poor lifestyle, high salt intake, smoking, diabetes mellitus, age, and increased sympathetic activity, the said causes are also not work-related.[18]

Dissatisfied with the findings, petitioner opted to see a private cardiologist, Dr. May S. Donato-Tan *(Dr. Donato-Tan)*. On September 10, 2015, Dr. Donato-Tan issued a Medical Certificate[19] indicating that petitioner still felt drowsy even after waking up and had shortness of breath, somnolence, loud snoring, and erratic blood pressure even while taking Amlodipine 5 mg. She, thus, declared him permanently disabled as he would not be able to perform his job effectively, efficiently, and productively as a seaman.[20]

On September 15, 2015, petitioner's counsel, Atty. Simplicio B. Bermejo, Jr., *(Atty. Bermejo)* wrote respondent C.F. Sharp Crew Management, Inc. a letter,[21] informing that an independent medical expert declared his client to be totally and permanently unfit for sea duties, and inviting them for a third medical opinion for purposes of determining his disability benefits. He also requested for a copy of petitioner's final medical assessment and copies of his medical records in accordance with Sec. 20(F)[22] of the POEA-SEC.

As the demand letter went unheeded, petitioner filed a complaint against C.F. Sharp Crew Management, Inc., Prestige Cruise Services, LLC/Prestige Cruise Holdings, Inc. and Geronimo F. Caidic *(*collectively, *respondents)* before the PVA for payment of total and permanent disability compensation, moral and exemplary damages, and attorney's fees.[23]

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[18] Id.
[19] Id. at 159-160.
[20] Id. at 160.
[21] Id. at 161.
[22] SECTION 20(F) of the POEA-SEC, provides:
F. When requested, the seafarer shall be furnished a copy of all pertinent medical reports of any records at no cost to the seafarer.
[23] *Rollo*, pp. 107-108.

Mandatory conferences were held, but no amicable settlement was reached by the parties. Hence, the filing of their respective Position Papers,[24] Reply,[25] and Rejoinder.[26]

The PVA Ruling

On November 18, 2016, the PVA rendered judgment in petitioner's favor finding that his illnesses remained unresolved despite the lapse of 120 or 240 days, in accordance with the medical certificate of his chosen physician. It ruled that chronic tonsillitis, hypertension and hypertensive arteriosclerotic cardiovascular diseases *(HACVD)* are specifically listed as occupational diseases under Sec. 32-A of the POEA-SEC; thus, work-related and compensable.[27] The dispositive portion of the decision reads:

> **WHE[RE]FORE,** judgment is hereby rendered ordering respondents C.F. Sharp Crew Management, Inc., Prestige Cruise Services, LLC / Prestige Cruise Holdings, Inc., and Geronimo F. Cadic, to pay complainant Raegar B. Ledesma, jointly and severally, the amount of ***SIXTY THOUSAND US DOLLARS*** **(US$60,000.00)**, representing his permanent and total disability benefits plus ***ten percent (10%)*** thereof as and by way of attorney's fees or its equivalent in Philippine Peso at the time of actual payment.
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> Other claims are dismissed for lack of merit.
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> **SO ORDERED.** [28]

MVA George A. Eduvala dissented[29] from the majority, and opined that the assessment given by the company-designated physician as to petitioner's fitness to work and whether his illnesses were work-related, carried more weight. He likewise noted that petitioner failed to offer evidence showing the relation between his illnesses and his work on board the vessel.[30]

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[24] Id. at 107-138 and 162-197.
[25] Id. at 242-264 and 265-290.
[26] Id. at 291-307 and 309-320.
[27] Id. at 330 and 333.
[28] Id. at 335.
[29] Id. at 336-344 (MVA Eduvala's Dissenting Opinion).
[30] Id. at 342-343.

Aggrieved, respondents moved for reconsideration,[31] but their motion was denied[32] by the PVA. Hence, they filed a Petition for Review[33] before the CA.

The CA Ruling

On February 28, 2018, the CA rendered the now assailed decision reversing the PVA. The CA disposed:

> **WHEREFORE**, the petition for review is **GRANTED**. The assailed dispositions of majority of the PVA are **REVERSED** and **SET ASIDE**. Accordingly, the Respondent's [Ledesma's] complaint, in MVA-100-RCMB-NCR-043-03-03-2016, before the PVA is **DISMISSED**. No costs.
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> **SO ORDERED.**[34]

The CA noted that from the time petitioner was repatriated on April 13, 2015, he was seen and examined by the company-designated physician 19 times, and was prescribed the corresponding treatments and medications for the following illnesses: diabetes mellitus, hypertension, and chronic tonsillitis with features of obstructive sleep apnea. Even before 120 days had elapsed, or while he was still under temporary total disability, Dr. Go had already declared him fit for further sea duty and advised him to continue using the CPAP machine for management of his obstructive sleep apnea. Disagreeing with the results, petitioner obtained a second opinion from his chosen physician, who recommended him for total and permanent disability only after a single consultation. The CA then opined that petitioner is not entitled to total and permanent disability benefits because the company-designated physician already declared him fit to resume work within the 120-day period.[35]

It also added that the conflicting findings of Dr. Go, as the company-designated physician, and petitioner's chosen physician, were never referred to a third doctor. It accorded more credence to the findings of the company-designated physician considering the amount of time and effort invested in monitoring and treating petitioner's condition. The extensive medical attention provided by Dr. Go enabled her to acquire a detailed knowledge and accurate diagnosis of petitioner's medical condition, as compared to petitioner's chosen physician, who was not privy to his case from the

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[31] Id. at 345-371.
[32] Id. at 372-373.
[33] Id. at 374-418.
[34] Id. at 21-22.
[35] Id. at 18-19.

beginning. In the absence of any findings coming from a third doctor, the assessment of the company-designated physician with respect to his disability must prevail.[36]

As previously explained by Dr. Go in her medical opinion dated August 6, 2015, petitioner's illnesses are not work-related. Petitioner's chosen physician made no pronouncement as to whether his illnesses were work-related or not. In her lone medical report, petitioner's personal doctor only stated that he would not be able to perform his job effectively, efficiently, and productively as a seaman, thereby making him permanently disabled. There was no finding that his condition was work-related nor was there any explanation as to his entitlement to permanent disability. For these reasons, much reliance must be placed on the company-designated physician's medical opinion on whether petitioner's illnesses are work-related.[37]

Issues

Aggrieved by the CA decision, petitioner filed an appeal by *certiorari* before the Court, arguing that the CA seriously erred and acted with grave abuse of discretion when it declared (1) that his illnesses are not work-related despite the failure of the company-designated physician to make a full, complete, and final categorical assessment; and (2) that he is fit to work despite his continued suffering from such illnesses.[38] Petitioner also faults the CA for penalizing him for respondents' refusal to avail of the conflict resolution provision under the POEA-SEC and the collective bargaining agreement on the referral to a third medical opinion.[39]

The Court's Ruling

The petition lacks merit.

Whether or not a seafarer's illness is compensable is essentially a factual issue.[40] Issues of fact may not be raised under Rule 45 of the Rules of Court because the Court is not a trier of facts, and its function in petitions for review on *certiorari* is limited to reviewing errors of law that may have been committed by the lower courts.[41] Be that as it may, among the recognized exceptions to said rule, is when the factual findings of the CA are inconsistent

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[36] Id. at 20.
[37] Id. at 20-21.
[38] Id. at 45.
[39] Id. at 45-46.
[40] *Bright Maritime Corporation v. Racela*, 852 Phil. 536, 553 (2019).
[41] *Dionio v. ND Shipping Agency and Allied Services, Inc.*, 838 Phil. 953, 965 (2018).

with that of the labor tribunals.[42] Due to the conflicting findings of the CA and the PVA as to petitioner's entitlement to disability benefits, the Court deems it proper to tackle the factual issues to resolve the dispute with finality.

Petitioner failed to prove by substantial evidence, that his illnesses are work-related or work-aggravated.

Petitioner asserts that his medical conditions are work-related, or at least work-aggravated. In claiming that his hypertension is work-related, he insists that the company-designated physician herself stated that high salt intake and poor lifestyle are risk factors of his medical conditions.[43] He alleges that he found himself more vulnerable to unhealthy diet while aboard the vessel because there was unlimited amount of food servings available and there was lack of control over food choices, which consist mostly of high dietary meat and fat.[44]

The contentions are devoid of merit.

The entitlement of overseas seafarers to disability benefits is a matter governed, not only by medical findings, but also by law and contract. The pertinent statutory provisions, on the one hand, are Articles 191, 192, and 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation to Rule X of the Rules and Regulations Implementing Book IV of the Labor Code.[45] The relevant and applicable contract, on the other hand, is the 2010 POEA-SEC (Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships,) under POEA Memorandum Circular No. 10 (Series of 2010), since petitioner was hired in 2015.

In *Ilustricimo v. NYK-FIL Ship Management, Inc.*,[46] the Court held that for disability to be compensable under Sec. 20(A) of the 2010 POEA-SEC, two elements must concur: (1) the injury or illness must be work-related; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract. The 2010 POEA-SEC defines "work-related illness" as "any sickness as a result of an occupational disease listed under

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[42] *Bright Maritime Corporation v. Racela*, supra at 554.
[43] *Rollo*, p. 46.
[44] Id. at 110.
[45] *Bright Maritime Corporation v. Racela*, supra.
[46] 834 Phil. 693 (2018).

Sec. 32-A of [the] Contract with the conditions set therein satisfied."[47] Meanwhile, Sec. 20(A)(4) provides that "[t]hose illnesses not mentioned under Sec. 32 of [the] contract are disputably presumed as work-related."[48]

In *Dionio v. ND Shipping and Allied Services, Inc.*,[49] the Court explained that this disputable presumption is made in the law to signify that the non-inclusion in the list of compensable diseases/illnesses does not translate to an absolute exclusion from disability benefits. In other words, the disputable presumption does not signify an automatic grant of compensation and/or benefits claim; the seafarer must still prove his or her entitlement to disability benefits by substantial evidence of his or her illness' work-relatedness.[50]

Here, there is no dispute that petitioner was medically repatriated due to hypertension, diabetes mellitus II, chronic tonsillitis, obstructive sleep apnea and congestive heart failure. Sec. 32-A likewise includes heart failure as an occupational disease. However, such circumstances cannot, by themselves, justify the award of disability benefits. Under the 2010 POEA-SEC and the existing jurisprudence, petitioner still has the burden to prove by substantial evidence, that his illnesses are either work-related or work-aggravated. Unfortunately, he failed to meet this requirement.

Hypertension and diabetes do not ipso facto warrant the award of disability benefits.

The Court likewise rejects petitioner's insistence that he is entitled to permanent and total disability benefits by reason of his hypertension and diabetes. In *C.F. Sharp Crew Management, Inc. v. Santos*,[51] the Court ruled that hypertension and diabetes do not *ipso facto* warrant the award of permanent and total disability benefits to a seafarer:

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[47] Section 32-A of the POEA-SEC, provides:

SECTION 32-A. *Occupational Diseases.* —

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The seafarer's work must involve the risks described herein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it; and
4. There was no notorious negligence on the part of the seafarer.

[48] *Ilustricimo v. NYK-FIL Ship Management, Inc.*, supra at 701.

[49] Supra note 41.

[50] Id. at 977.

[51] 838 Phil. 82 (2018).

> Essential hypertension is among the occupational diseases enumerated in Sec. 32-A of the POEA-SEC. To enable compensation, the mere occurrence of hypertension, even as it is work-related and concurs with the four (4) basic requisites of the first paragraph of Sec. 32-A, does not suffice. The POEA-SEC requires an element of gravity. It speaks of essential hypertension only as an overture to the impairment of function of body organs like kidneys, heart, eyes and brain. This impairment must then be of such severity as to be resulting in permanent disability. Sec. 32-A, paragraph 2, thus, requires three successive occurrences: first, the contracting of essential hypertension; second, organ impairment arising from essential hypertension; and third, permanent disability arising from that impairment. In keeping with the requisite gravity occasioning essential hypertension, the mere averment of essential hypertension and its incidents do not suffice.
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> On the other hand, diabetes is not among Sec. 32-A's listed occupational diseases. As with hypertension, it is a complex medical condition typified by gradations. Blood sugar levels classify as normal, [prediabetes], or diabetes depending on the glucose level of a patient. Diabetes mellitus is a metabolic and a familial disease to which one is [predisposed] by reason of heredity, obesity or old age. It does not indicate work-relatedness and by its nature, is more the result of poor lifestyle choices and health habits for which disability benefits are improper.
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> Manifestly, hypertension and diabetes do not *ipso facto* warrant the award of permanent and total disability benefits to a seafarer. Notably, Sec. 32-A of the POEA-SEC recognizes that a seafarer can still be employed even if he has hypertension and/or diabetes provided that he shows compliance with the prescribed maintenance medications and doctor-recommended lifestyle changes.[52]

To stress, the mere occurrence of hypertension does not suffice because the POEA-SEC requires that it be severe or grave in order to become a permanent and total disability.[53] Besides, Sec. 32-A of the POEA-SEC recognizes that a seafarer can still be employed even if he has hypertension or diabetes provided that he shows compliance with the prescribed maintenance medications and doctor-recommended lifestyle changes.[54]

Here, the company-designated physician issued a Medical Certificate[55] dated August 6, 2015 on the 113th day of petitioner's treatment, stating that his medical conditions are not work-related nor work-aggravated; whereas, hypertension could be work-aggravated if his work involves strenuous or extraordinary activities that can increase blood pressure, thus:

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[52] Id. at 98-100.
[53] Id. at 99.
[54] Id. at 100.
[55] *Rollo*, p. 241.

> Diabetes Mellitus is usually familial or hereditary. This is also a metabolic disorder where an individual gains weight even to the point of obesity leading to insulin resistance and inability of the body to utilize blood sugar available for cell/organ metabolism.
>
> On the other hand, Obstructive Sleep Apnea is caused by airway obstruction with pauses in breathing during sleep. Risk factors include overweight/obesity, small receding jaw and short neck.
>
> His **Diabetes Mellitus and Obstructive Sleep Apnea** are **not work-related and not-work-aggravated.**
>
> **Chronic [Tonsillitis]** is recurrent infection of the tonsils leading to hypertrophic tonsils. This is **not work-related nor work-aggravated** and can also aggravate Obstructive Sleep Apnea.
>
> The etiology/cause of **Hypertension is not work-related**. It is multifactorial in origin which includes genetic predisposition, poor lifestyle, high salt intake, smoking, Diabetes Mellitus, age and increased sympathetic activity. Condition can be considered **work-aggravated if his work involves strenuous or extraordinary activities** that can increase the blood pressure.[56] (emphases and underscoring supplied)

In stark contrast to the company-designated physician's foregoing findings, which was preceded by 19 medical progress reports,[57] there is nothing in the September 10, 2015 Medical Certificate[58] issued by Dr. Donato-Tan, petitioner's personal doctor, which shows his medical conditions being work-related or work-aggravated, let alone that his hypertension is grave or severe, thus:

> MEDICAL CERTIFICATE
> RAEGAR LEDESMA
>
> History of the Present Illness:
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> Present condition was noted 6 months PTC as drowsiness while working on board their ship. Above condition was noted to be manifested as early awakening from sleep during [nighttime] since the middle of March 2015. He also noted easy fatigability, occasional shortness of breath, clogged nose, frequent coryza or colds and [sore throat]. Aside from the above symptoms, he also experiences sleepiness during daytime. He was also [informed] by his crew members and cabin mate that "malakas mag snore." He uses 2 pillows when sleeping but still had loud snoring.
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> Because of the above[,] he consulted their ship doctor who gave an impression of "To consider obstructive sleep apnea," hypertension and

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[56] Id.
[57] Id. at 218-240.
[58] Id. at 159-160.

probable congestive heart failure. Because of the persistence of the above symptoms, he was referred at the South Miami and treated last April 7, 2015. Different laboratories were done. He was given Amlodipine 5mg 1 tab OD, HCTz 25 mg 1 tab OD and Metformin 500 mg 1 tab OD.

He was advised to take his medications daily and was repatriated last April 13, 2015 to his home country. He was later referred at Marine Medical Services for further evaluation and management last April 16, 2015. He was then given an initial impression of "To consider DM Type II, HPN, r/o Obstructive Sleep Apnea r/o Congestive Heart Failure.

He was subsequently referred at Cardinal Santos Medical Center due to presentation of increased daytime somnolence, easy fatigability and worsening episodes. He was given a diagnosis of Tonsillar Hypertrophy. By May 1, 2015, he underwent [Ellman Radiofrequency], Closure of Pillars, Oropharynx. He tolerated the procedure, [was] given antibiotics and analgesic, and was discharged last May 5, 2015 as improved.

But despite him undergoing the above procedure, Seaman Ledesma did not [improve]. He still complains of more frequent drowsiness, shortness of breath, somnolence and louder snoring.

He wanted to be referred to a sleep disorder specialist but because of financial [constraint] and he was declared improved and fit to work by the company physician/Marine Medical Seamans Physician, no support by his company only from April 16, 2015 to May 8, 2015 with a final diagnosis of DM Type II, Hypertension, Chronic [Tonsillitis] with features of Obstructive Sleep Apnea, s/p Tonsillectomy, Bilateral via [Ellman Radiofrequency] and Closure of Pillars, Oropharynx but despite the [Ellman] procedure done he still experience everyday/every night while sleeping or trying to sleep, sleep apnea episode.

Physical Exam:
General Summary: Conscious, coherent, flaring of the Alae Nasi noted, breathing thru Fish Mouth Contour.

Vital signs: BP 180/100 (2x)-160/100 (2x) CR: 100/in
ENT: Non-icteric sclerae, Pink Palperbral Sclerae
Heart: Tachycardic
Lungs: Clear breath sounds
Abdomen: No masses palpable
Extremities: No limitation of motion

Impression:
HACVD
HPN Stage II, erratic BP elevation
D/M Type II
Chronic Tonsillitis Bilateral

Tonsillectomy Bilateral by [Ellman Radiofrequency]
and Closure of Pillars Oropharynx

> Sleep Apnea, Severe Snoring
> Suggest: Sleep Apnea Studies and Treatment
>
> Reason for Permanent Disability:
>
> Seaman Ledesma despite his surgical procedure removal bilaterally his faucial tonsile feeling drowsy even after waking up. Had shortness of breath, somnolence and even louder snoring. He is not only having a very loud snoring but his wife observes that there are episodes that he seems not breathing from 10-15 seconds that his wife ends up waking him vigorously due to fear that he is dead. He still complains that he feels sleeping during the day.
>
> He is also having problems with his blood pressure which elevates erratically despite his intake of Amlodipine 5 mg BID. His latest BP reading there was 180/100 (2x) – 160-80 (2x).
>
> With the above signs and symptoms of Seaman Ledesma, he will not be able to perform his job effectively, efficiently and productively as a seaman, he is therefore given a permanent disability.[59]

As can be gathered from the foregoing medical certificate, petitioner's chosen physician failed to validate her findings with concrete medical and factual proofs and simply based her conclusions on a single medical checkup. Compared to the thorough medical findings of the company-designated physician which were supported by procedures conducted by specialists, the unsubstantiated medical certificate of petitioner's chosen physician fails to persuade the Court.

Moreover, petitioner merely claimed in his position paper to have found himself more vulnerable to an unhealthy diet while aboard the vessel because of the unlimited food servings and lack of control over food choices, which mostly consisted of high dietary meat and fat.[60] But he was unsuccessful in presenting substantial evidence that his medical conditions are work-related or were aggravated by his duties and responsibilities as chief fireman. Neither did he claim that his work involves strenuous or extraordinary activities which could increase blood pressure.

On this note, reference to the ruling in *Jebsens Maritime, Inc. v. Babol*[61] *(Jebsens Maritime, Inc.)* is proper. In said case, the Court had the occasion to address the seafarer's theory that a high risk dietary factor, which allegedly persisted on board the vessel, increased the probability that his illness *(nasopharyngeal carcinoma)* was aggravated by his working conditions. It held that the seafarer's assertion does not constitute as substantial evidence

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[59] Id. at 159-160.
[60] Id. at 110.
[61] 722 Phil. 828 (2013).

that a reasonable mind might accept as adequate to support the conclusion that there was a causal relationship between his illness and the working conditions on board the vessel. Although it recognized as sufficient that work conditions may have contributed even to a small degree, the Court stated that such conditions must be reasonable, and anchored on credible information, and that the claimant must still prove a convincing proposition instead of by mere allegations.[62]

The Court also refused, in *Jebsens Maritime, Inc.*, to take judicial notice of the seafarer's plain assertions, in light of the changing global landscape affecting international maritime labor practices. It noted the acceptance, albeit steadily, of the minimum standards governing food and catering on board ocean-going vessels as provided in the 2006 Maritime Labor Convention of which the Philippines and the vessel's flag country have signed, to wit:

> (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, **shall be suitable in respect of quantity, nutritional value, quality and variety**;
>
> (b) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and
>
> (c) catering staff shall be properly trained or instructed for their positions.[63] (emphasis and underscoring in the original)

The Court further noted that, although not yet fully implemented, the said International Labor Organization Convention merely underscores that food on board an ocean-going vessel may not necessarily be limited as alleged by the seafarer. Both parties in the said case submitted documents showing that fresh and varied provisions were provided on board, on the one hand, and that salt-cured fish and diet such as *bagoong dilis*, *bagoong alamang*, anchovies, *etc.*, were still included as victuals, on the other. The Court treated both submissions of the parties as equal in their respects and, thus, cannot be the sole determinant of whether petitioner is entitled to his claims.

In this case, petitioner alleges that he was vulnerable to an unhealthy diet while aboard the vessel because of the unlimited food servings and lack of control over food choices, which mostly consist of high dietary meat and fat. However, he also admits that vegetables were first consumed before they begin showing signs of spoilage and frozen meat and fishes were served for

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[62] Id. at 842.
[63] Id. at 843.

the rest of the voyage until there was an opportunity to buy vegetables in the markets from ports where the vessel dock throughout the journey.[64] He also does not dispute the company-designated physician's certification that hypertension is multi-factorial in origin, such as genetic predisposition, poor lifestyle, high salt intake, smoking, diabetes mellitus (which is usually familial and hereditary), age and increased sympathetic activity.[65]

Accordingly, the Court finds no substantial evidence to prove that petitioner's illnesses were caused by unhealthy diet while on board the vessel. While it is true that probability and not ultimate degree of certainty is the test of proof in compensation proceedings, it cannot be gainsaid that the award of compensation and disability benefits cannot rest on speculations, presumptions and conjectures.[66]

Petitioner's chronic tonsillitis is not compensable as an infection under the POEA-SEC.

Petitioner also insists that his chronic tonsillitis, which was defined by the company-designated physician as a recurrent infection of the tonsil leading to hypertrophic tonsils, is compensable under Sec. 32-A, paragraph 6[67] of the POEA-SEC on "infections resulting in complications necessitating repatriation." Petitioner exhorts the Court to revisit the medical certificates

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[64] *Rollo*, p. 110.
[65] Id.
[66] *Loadstar International Shipping, Inc. v. Yamson*, 830 Phil. 731, 746 (2018).
[67] Section 32-A, paragraph 6 of the POEA-SEC, provides:

Occupational Disease	Nature of Employment
x x x x	
6. Infections	Work in connection with animals infected with anthrax, handling of animal carcasses or parts of such carcasses, including hides, hoofs, and horns
Pneumonia Bronchitis Sinusitis Pulmonary TB Anthrax Cellulitis Conjunctivitis (Bacterial and Viral) Norwalk Virus Salmonella Leptospirosis Malaria Otitis Media Tetanus Viral Encephalitis	Hepatitis A*, Norwalk, Salmonella
Including other infections resulting in complications necessitating repatriation.	

attached to respondents' position paper to show their failure to give medical assessment and treatment to his other diagnosed medical condition (probable congestive heart failure) even after the lapse of 240 days.

The claim has no merit.

Petitioner's chronic tonsillitis is not compensable as an "infection resulting in complications necessitating repatriation" under Sec. 32-A of the POEA-SEC. It is clear from Sec. 32-A[68] that for such infection to be considered a compensable occupational disease, it must have been contracted under conditions involving the risk of "*work in connection with animals infected with anthrax, handling of animal carcasses, or parts of such carcasses, including hides, hoofs, and horns, Hepatitis A*, Norwalk, Salmonella.*" Petitioner failed to provide substantial evidence that his chronic tonsillitis was contracted while working under the cited risk conditions aboard the passenger vessel M/V Regatta. Hence, his claim must be rejected.

Probable congestive heart failure was treated and assessed with finality by the company-designated physician.

There is likewise no merit in petitioner's claim that his probable congestive heart failure was not treated and assessed with finality by the company-designated physician.

The Medical Certificate dated July 31, 2015 issued by Dr. Go on the 107th day of petitioner's treatment, noted that his cardiac diagnostic tests revealed no cardiac structural anomaly except for hypertension and venous insufficiency of both lower extremities.[69] Medical certificates were also issued by the company-designated physician showing that petitioner's probable congestive heart failure was treated and assessed with finality by the cardiologist, as follows:

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[68] Id.
[69] *Rollo*, p. 239.

1. April 16, 2015 – He was referred to a cardiologist for further evaluation and management of his possible congestive heart failure.[70]

2. April 17, 2015 – He underwent 12 Lead ECG and x-ray of the paranasal sinuses, chest and lateral view of upper airway for further evaluation.[71]

3. April 23, 2015 – He was seen by the cardiologist, who recommended him to undergo treadmill stress echocardiogram, 24-hour holter monitoring and venous duplex scan of the lower extremities as part of the work-ups for his cardiac condition. He was given medications (Lifezar and Daflon) and was advised to continue other medications (Fenoflex, Avamax, Forxiga and Glumet XR).[72]

4. April 30, 2015 – After undergoing the recommended diagnostic procedures, he was found by the cardiologist to have hypertension and was advised to continue his medications (Lifezar and Daflon).[73]

5. May 8, 2015 – He was seen by the cardiologist, who reviewed his 24-hour holter monitoring and venous duplex scan of the lower extremities and opined that he has hypertension and venous insufficiency of both lower extremities. He was advised medical management with Losartan and Daflon, and to continue with his other medications (Forxiga and Glumet XR).[74]

6. June 4, 2015 – He was seen by the cardiologist and was advised to start triglyceride lowering agent (Fenofibrate) and other medications (Daflon, Lifezar, Metformin, and Forxiga).[75]

7. June 19, 2015 – He was advised by the cardiologist to continue his medications (Lifezar, Daflon, and Fenolit).[76]

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[70] Id. at 220.
[71] Id. at 221.
[72] Id. at 222.
[73] Id. at 226.
[74] Id. at 231.
[75] Id. at. 234.
[76] Id. at 236.

8. July 10, 2015 – He was advised by the cardiologist to regularly exercise and to observe avoidance of caffeine, tobacco, alcohol and eating big meals close to bed time, and was given medications (L-Carnithine, Lifezar, Daflon, and Fenolit).[77]

9. July 31, 2015 – He was found by the specialist to have already reached the maximum medical improvement and that he is not unfit for further sea duties due to risk of apneic episode and cardiac arrhythmia for his obstructive sleep apnea.[78]

To dispute the foregoing medical certificates of the company-designated physician, petitioner's chosen physician merely presented a single medical certificate, stating that his physical examination showed that he was tachycardic and that the physician was under the impression that he had HACVD. Notably, his chosen physician was not even able to review his complete medical records and hardly mentioned probable congestive heart failure as a reason for his supposed permanent disability:

> Seaman Ledesma despite his surgical procedure removal bilaterally his faucial tonsile feeling drowsy even after waking up. Had shortness of breath, somnolence and even louder snoring. He is not only having a very loud snoring but his wife observes that there are episodes that he seems not breathing from 10-15 seconds that his wife ends up waking him vigorously due to fear that he is dead. He still complains that he feels sleeping during the day.
>
> He is also having problems with his blood pressure which elevates erratically despite his intake of Amlodipine 5 mg BID. His latest BP reading there was 180/100 (2x) – 160-80 (2x).
>
> With the above signs and symptoms of Seaman Ledesma, he will not be able to perform his job effectively, efficiently and productively as a seaman, he is therefore given a permanent disability.[79]

In view of the medical certificates issued by the company-designated physician, which are based on extensive and numerous medical assessments of both the company-designated physician and cardiologist, the credibility and reliability of the lone medical certificate of petitioner's chosen physician becomes doubtful. Thus, petitioner has no basis to claim that respondents'

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[77] Id. at 238.
[78] Id. at 240.
[79] Id. at 160.

physician failed to treat and assess with finality his probable congestive heart failure.

Petitioner's demand letter had set in motion the process of choosing a third doctor despite not attaching the medical certificate of his chosen doctor; Labor tribunals and courts are empowered to conduct their own assessment to resolve conflicting medical opinions based on the totality of evidence.

Petitioner blames respondents for ignoring his demand for a medical opinion of a third doctor despite the declaration of his chosen physician that he was permanently disabled for sea duty. Respondents countered that he failed to duly and fully disclose the contrary assessment of his chosen physician by attaching the same to his demand letter before filing the complaint.

On this note, the Court agrees with petitioner.

Sec. 20(A)(3) of the POEA-SEC provides for a mechanism to challenge the validity of the company-designated physician's assessment:

> 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.

In *Bahia Shipping Services, Inc. v. Constantino*,[80] the Court held that as the party seeking to challenge the validity of the certification that the law itself recognizes as prevailing, the seafarer bears the burden of positive action to prove that his doctor's findings are correct, as well as the burden to notify the company that a contradictory finding had been made by his own physician. Upon such notification, the company must itself respond by setting into

[80] 738 Phil. 564 (2014).

motion the process of selecting a third doctor who, as the POEA-SEC provides, can rule with finality on the disputed medical situation.[81]

In *Carcedo v. Maine Marine Philippines, Inc.*[82] *(Carcedo)*, the Court laid down the procedure in the event that the finding of the seafarer's own physician conflicts with that of the company doctor. In such instance, the seafarer shall then manifest his or her intention to resolve the conflict by the referral to a third doctor whose ruling, under the POEA-SEC, shall be final and binding on the parties. Upon notification, the company carries the burden of initiating the process for the referral to a third doctor commonly agreed between the parties.[83]

Finally, in the recent case of *Benhur Shipping Corporation v. Riego*[84] *(Benhur Shipping Corporation)*, the Court, in analyzing Sec. 20(A)(3) of the POEA-SEC and *Carcedo*, explained that it was neither stated nor required therein that the seafarer shall attach the medical report of his or her own doctor in requesting for referral to a third doctor. "Notably, it is not the employer who will assess the medical report of the seafarer's chosen physician; rather, it would be the labor tribunals where the complaint for disability benefits is filed that would assess the medical report."[85]

As to what the seafarer's letter-request for a referral to a third doctor should contain, the Court, in *Benhur Shipping Corporation*, explained:

> Accordingly, what is required from the medical opinion of the seafarer's chosen physician is that there be a statement regarding the seafarer's fitness to work **OR** the disability rating. Consequently, as long as the seafarer's letter-request for referral to a third doctor sent to the employer indicates the seafarer's doctors' assessment of the seafarer's fitness to work or disability rating, which is contrary to the company-designated physician's assessment, then that suffices to set in motion the process of choosing a third doctor. Indeed, the seafarer is merely a layman and not a medical professional; thus, he is not expected to indicate every medical term in his letter-request for referral to a third doctor. Stating the seafarer's fitness to work or the disability rating in the letter-request for referral to a third doctor would constitute as adequate compliance.
>
> Pursuant to *Carcedo,* when the letter-request for referral to a third doctor indicates the seafarer's fitness to work or the disability rating

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[81] Id. at 576.
[82] 758 Phil. 166 (2015).
[83] Id. at 189-190, citing *INC Shipmanagement, Inc. v. Rosales*, 744 Phil. 774 (2014).
[84] G.R. No. 229179, March 29, 2022.
[85] Id.

> according to his own physician, then the seafarer is deemed to have duly and fully disclosed the contrary assessment of his own doctor, and the seafarer can signify his intention to resolve the conflict through referral of the conflicting assessments to a third doctor whose ruling, under the POEA-SEC, shall be final and binding on the parties.[86] (emphasis and underscoring in the original)

In this case, the demand letter for referral to a third doctor indicates that petitioner is totally and permanently unfit for sea duties. There is also a valid and timely assessment made by Dr. Go in the July 31, 2015 Medical Certificate that petitioner is "not unfit for further sea duties." However, Dr. Donato-Tan could not have refuted such assessment, as no complete medical records were available at that time. This can be gleaned from the tenor of Atty. Bermejo's demand letter dated September 15, 2015, which reads:

> Upon his [Ledesma's] arrival in Manila, he immediately reported to your [respondents'] office. He was then referred to **the company-designated physician** who, **after a series of examinations and physical therapy, discontinued his medical treatment without informing him of the final assessment.** In an effort to ascertain his medical condition, he sought the medical expertise of an independent expert who declared him **totally and permanently unfit for sea duties**.
>
> As his medical expert declared him unfit, we invite your good office for a Third Medical Opinion for purposes of his disability benefit. Moreover, **we would like to request copy of his final medical assessment and copies of all his medical records pertaining to his medical treatment** in accordance with Section 20 (F) of the POEA-SEC, which states that: *Under the standard employment contract, the employer is under obligation to furnish the seafarer, upon request, a copy of all pertinent medical reports or any records at no cost to the seafarer.*
>
> Please don't hesitate to call the undersigned to schedule and discuss the matter all within five days from receipt hereof. Otherwise, we will be constrained to file the necessary action. Thank you and more power.[87] (emphases supplied)

Clearly, petitioner's chosen physician may not be expected to refute the findings of the company-designated physician because she was not furnished a copy of the final assessment and petitioner's medical records. While it is the duty of the employer to furnish a copy of all pertinent medical reports or any

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[86] Id.
[87] *Rollo*, p. 161.

records at no cost to the seafarer, pursuant to Sec. 20(F)[88] of the POEA-SEC, such duty arises only upon request of the seafarer. Meanwhile, there is no evidence on record that petitioner requested for a copy of his final assessment and medical records before seeking the opinion of his chosen physician on September 10, 2015. Notably, petitioner's demand for medical opinion from a third doctor and request for medical records was made only in the letter dated September 15, 2015.

Nevertheless, petitioner's demand letter for referral to a third doctor, indicates his doctor's assessment of his unfitness to work, which was contrary to the findings of the company-designated physician. The Court deems such letter as a due and full disclosure of the contrary assessment made by petitioner's chosen physician, Dr. Donato-Tan, as it informed respondents that she had declared him totally and permanently unfit for sea duties. In line with the ruling in *Benhur Shipping Corporation*,[89] the Court declares petitioner's letter as sufficient to set in motion the process of choosing a third doctor, even if the medical certificate issued by Dr. Donato-Tan was not attached thereto.

Certainly, "when the employer fails to act on the seafarer's valid request for referral to a third doctor, the [labor] tribunals and courts are empowered to conduct its own assessment to resolve the conflicting medical opinions of the company-designated physician and the seafarer's chosen physician based on the totality of evidence."[90] The employer simply cannot proffer the conclusiveness of the company-designated physician's medical opinion *vis-à-vis* the seafarer's chosen physician's medical opinion when it is because of the employer's own disregard and neglect that the medical assessment was not referred to a third doctor.[91]

In this case, respondents failed to respond despite receipt of petitioner's demand letter dated September 15, 2015. Thus, the Court is constrained to resolve the conflicting findings as to petitioner's fitness to resume sea duty, as stated in the July 31, 2015 final assessment of Dr. Go, and the September 10, 2015 medical certificate of Dr. Donato-Tan.

Petitioner faults respondents for failing to render a full, complete, and categorical certification of his fitness to return to sea duties because Dr. Go's July 31, 2015 Medical Certificate not only stated that he "had already reached

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[88] When requested, the seafarer shall be furnished a copy of all pertinent medical reports or any records at no cost to the seafarer.
[89] Supra note 84.
[90] Id.
[91] Id.

maximum medical improvement"[92] and "is not unfit for further sea duties due to risk of apneic episode and cardiac arrhythmia for his obstructive sleep apnea,"[93] but also that "if patient [petitioner] is entitled to a disability, his suggested disability grading is Grade 12 – slight residual disorder."[94]

Suffice it to state that while there was no express finding that petitioner was "fit for sea duties," the implied meaning of the medical certificate is the same. He is fit for sea duties, because the company-designated physician, Dr. Go, found he "had already reached maximum medical improvement"[95] from his diagnosed illnesses. There is likewise no evidence on record that respondents rejected his application for deployment as chief fireman on account of his illnesses, or that he was declared unfit for sea duty when he underwent a subsequent pre-employment medical examination.

It bears emphasis that the July 31, 2015 Medical Certificate was issued on the 107th day of petitioner's treatment and was preceded by 18 medical progress reports, showing that he was under close medical supervision, monitoring and treatment by the company-designated physician since the day he was medically repatriated on April 13, 2015.

The Court notes that Dr. Go's certification, like in *Magsaysay Maritime Corporation v. Verga*,[96] is "not a hastily issued missive but [the] product of [several] months of consultations, examinations, treatments and assessments."[97] Compared to the certificate issued by Dr. Donato-Tan, who only physically examined petitioner without even reviewing his complete medical records, Dr. Go's certification is more credible and must be upheld. As between the company-designated physician, who have all the medical records of a seafarer for the duration of his or her treatment, and the latter's chosen physician, who merely examined him or her for a day as an outpatient, the former's findings must prevail.[98]

As for Dr. Go's suggestion of a Grade 12 disability rating for slight residual disorder, the same can be considered a superfluity because it has no basis under Sec. 32 of the 2010 POEA-SEC. Given that such Grade 12 disability rating pertains only to illness affecting "the intra-abdominal organs resulting in impairment of nutrition, slight tenderness and/or constipation or

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[92] *Rollo*, p. 240.
[93] Id.
[94] Id.
[95] Id.
[96] 841 Phil. 926 (2018).
[97] Id. at 938-939.
[98] *Ranoa v. Anglo-Eastern Crew Management Phils., Inc.*, G.R. No. 225756, November 28, 2019, 926 SCRA 526, 553.

diarrhea," and the fact that petitioner is not suffering from such illnesses, the Medical Certificate dated July 31, 2015 is nonetheless full, complete and categorical insofar as it effectively certified petitioner as fit for sea duties.

In sum, for failure of petitioner to prove by substantial evidence that his illnesses are work-related or work-aggravated, his complaint for permanent total disability benefits should be dismissed. While the Court adheres to the principle of liberality in favor of the seafarer in construing the POEA-SEC, it cannot allow claims for compensation based on surmises, for such liberal construction is not a license to disregard the evidence on record or to misapply our laws.[99]

The parties should be referred to a third doctor in case of apparent conflict in the findings of the company doctor and the seafarer's chosen physician.

On a final note, when there is an apparent conflict between the medical findings of the company-designated physician and of the seafarer's chosen physician, and the seafarer clearly demands the opinion of a third doctor, as in this case, it would do well for the National Conciliation and Mediation Board to adopt a policy on seafarer disability claims similar to Resolution No. 08-14 (Series of 2014) issued by the NLRC,[100] whereby all labor arbiters, during mandatory conferences, are directed to give the parties a period within which to secure the services of a third doctor, and an additional period for the third doctor to submit a reassessment. This is to mandate the employers and seafarers to avail of the option under Sec. 20(A)(3)[101] of the POEA-SEC, to finally determine the entitlement of seafarers to disability benefits.

After all, it is the duty of the voluntary arbitrator/panel of voluntary arbitrators as advocate/s of expeditious, impartial, inexpensive, and effective settlement of labor disputes, to conciliate and mediate to aid the parties in

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[99] *Bright Maritime Corporation v. Racela*, supra note 40 at 568.

[100] Directing all Labor Arbiters to give parties a period of fifteen (15) days to secure the services of a third doctor and an additional period of thirty (30) days for the third doctor to submit reassessment. Promulgated on November 12, 2014.

[101] Section 20(A)(3) of the POEA-SEC, provides:

x x x x

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 not exceed 120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.

reaching a voluntary settlement of the dispute.[102] Besides, during the initial conference, the parties shall be encouraged to explore all possible options for settlement of the dispute through conciliation and mediation.[103] Without doubt, referral to a third doctor jointly agreed by the employer and the seafarer in case the latter disagrees with the company-designated physician's assessment, is an expeditious, impartial, inexpensive, and effective settlement of labor disputes, because the third doctor's decision shall be final and binding on both parties.

WHEREFORE, the appeal by *certiorari* is **DENIED**. The February 28, 2018 Decision and the July 27, 2018 Resolution of the Court of Appeals in CA-G.R. SP No. 151396 are **AFFIRMED**.

Let a copy of this Decision be furnished the National Conciliation and Mediation Board, for its guidance and information.

SO ORDERED.

ALEXANDER G. GESMUNDO
Chief Justice

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[102] *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings.*

RULE V. *Powers and Duties of Voluntary Arbitrator*

SECTION 1. *Duty to Conciliate and Mediate.* — The Voluntary Arbitrator SHALL EXERT BEST EFFORTS to conciliate or mediate to aid the parties in reaching a voluntary settlement of the dispute before proceeding with arbitration.

SECTION 2. *Duty to Encourage the Parties to Enter Into Stipulation of Facts.* — TO FACILITATE SPEEDY DISPOSITION OF CASES, IN CASE THE PARTIES FAILED TO REACH A VOLUNTARY SETTLEMENT OF THE DISPUTE, THE VOLUNTARY ARBITRATOR SHALL ENCOURAGE THE PARTIES TO ENTER INTO STIPULATION OF FACTS, WHICH SHALL BE REDUCED IN WRITING, SIGNED BY THE PARTIES, AND SHALL FORM PART OF THE RECORDS OF THE CASE.

SECTION 3. *Powers.* — The voluntary arbitrator shall have the FOLLOWING powers to:

x x x x

3) TAKE WHATEVER ACTION IS NECESSARY TO RESOLVE THE ISSUE/S SUBJECT OF THE DISPUTE[.]

[103] RULE VI. *Proceedings Before Voluntary Arbitrator*

x x x x

SECTION 3. *Initial Conference.* — During the INITIAL conference, the parties shall be encouraged to explore all possible means of effecting a settlement of the dispute. Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced in writing and signed by the parties before the voluntary arbitrator AND IT SHALL FORM PART OF THE DECISION.

WE CONCUR:

RAMON PAUL L. HERNANDO
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

RICARDO R. ROSARIO
Associate Justice

(On official leave)
JOSE MIDAS P. MARQUEZ
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.

ALEXANDER G. GESMUNDO
Chief Justice