



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **September 28, 2022**, which reads as follows:

**“G.R. No. 260161 (*Bahia Shipping Services, Inc., Carnival Cruise Line vs. Jonathan Laspiñas Lozada*).—** The instant Petition for Review on *Certiorari*<sup>1</sup> inveighs against the *Decision*<sup>2</sup> dated 7 January 2021 and the *Resolution*<sup>3</sup> dated 25 March 2022 of the Court of Appeals (CA) in CA-G.R. SP No. 165204, which upheld the Decision dated 31 July 2019 of the National Labor Relations Commission (NLRC) in NLRC NCR CN. OFW (M) 07-12225-18, and which denied the Motion for Reconsideration<sup>4</sup> thereof, respectively. The NLRC Decision awarded permanent and total disability benefits in favor of Jonathan Laspiñas Lozada (respondent).

After a perspicacious study of the case, the Court resolves to **DENY** the Petition for want of merit.

Prefatorily, the question of whether or not respondent’s illness is compensable is a factual issue, which is beyond the ambit of a Rule 45 petition. As a rule, this Court may only review questions of law, and factual findings of administrative or *quasi*-judicial bodies, including labor tribunals, are accorded much respect as they are specialized to rule on matters falling within substantial evidence.<sup>5</sup> In the case at bench, the determination of facts by the Labor Arbiter (LA) is in conflict with the consistent declarations of the NLRC and the CA. Appropriately, it behooves this Court to review the factual determination on the issue of whether or not Lozada is entitled to permanent and total disability benefits.

An overseas seafarer who sustains an injury or contracts an illness in relation to the conduct of his work may be entitled to disability benefits, which may be temporary total disability, permanent total disability, or permanent partial disability. Articles 197 to 199 of the Labor Code, the

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<sup>1</sup> *Rollo*, pp. 38-62.

<sup>2</sup> *Id.* at 63-79. Penned by Associate Justice Marlene Gonzales-Sison, with the concurrence of Associate Justices Pablito A. Perez and Florencio Mallanao Mamauag, Jr.

<sup>3</sup> *Id.* at 80-81.

<sup>4</sup> *Id.* at 82-94.

<sup>5</sup> See *Multinational Ship Management, Inc. vs. Briones*, G.R. No. 239793, 27 January 2020.

Amended Rules on Employee Compensation, the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC), and the Collective Bargaining Agreement, if any, ordain the guidelines for payment of disability benefits. The law, the employment contract and the medical findings, thus, govern the entitlement of an overseas seafarer to disability benefits.<sup>6</sup> As respondent's last contract with Bahia Shipping Services, Inc. (petitioner Bahia) was dated 20 February 2017,<sup>7</sup> the 2010 POEA-SEC therefore finds application therein.

The last paragraph of Section 20 (A) (3) of the 2010 POEA-SEC is instructive with respect to a seafarer's compensation and benefits after suffering from a work-related injury or illness, *viz.*:

SECTION 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:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the ship.
2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated. However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit, or the degree of his disability has been established by the company-designated physician.
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.

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,

<sup>6</sup> *Grona vs. Singa Ship Management Phils., Inc.*, G.R. No. 247532, 6 October 2021.

<sup>7</sup> *Rollo*, p. 41.

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.**<sup>8</sup> (Emphasis in the original)

In the case of *Wenceslao vs. C.F. Sharp Crew Management, Inc.*,<sup>9</sup> the Court made an edifying discourse on what comprises a final medical assessment and who should be furnished thereof, thusly:

To constitute a final and definitive assessment issued by the company-designated physician, the same must "state whether the seafarer is fit to work or the exact disability rating, or whether such illness is work-related." The final assessment of the company-designated physician should be issued within 120 days from the date of the seafarer's medical repatriation, or within 240 days if supported with justification for extension of medical treatment. Failure to issue a final assessment within the foregoing periods renders a seafarer's illness or injury permanent and total regardless of justification. **Aside from the timely issuance of the company-designated physician's medical assessment within the 120/240-day periods, the company or its doctors are mandated to furnish the same to the seafarer. The seafarer must be fully and properly informed of his medical condition.** The results of his/her medical examinations, the treatments extended to him/her, the diagnosis and prognosis, if needed, and, of course, his/her disability grading must be fully explained to him/her by no less than the company-designated physician. **The seafarer must be accorded proper notice and due process especially where his/her well-being is at stake. The effect of failure of the company to furnish the seafarer a copy of his medical certificate militates gravely against the company's cause.**<sup>10</sup> (Citations omitted; emphases supplied)

Here, petitioner Bahia asserts that the company-designated physician issued, within the 240-day period mandated by law, a final medical assessment that categorically expressed his findings that respondent has reached maximum medical improvement and that his disability has a Grade 13 rating under the POEA-SEC.<sup>11</sup>

*The assertion deserves short shrift.*

Although this Court finds that the company-designated physician issued a complete, final medical assessment on 31 January 2018 indicating

<sup>8</sup> See *Parce vs. Magsaysay Maritime Corp.*, G.R. No. 241309, 11 November 2021.

<sup>9</sup> G.R. No. 253191, 14 May 2021.

<sup>10</sup> *Id.*

<sup>11</sup> *Rollo*, pp. 22-23 and 68-69.

respondent's exact disability rating, a more circumspect review of the records of the case evinces that he was never furnished a copy of such medical assessment or progress report. In actual fact, he learned that petitioner Bahia's assigned physician issued a final medical assessment only on 27 April 2018, when his counsel formally requested a copy of the same, in preparation for arbitration. Even petitioner Bahia admitted in its own Petition before this Court that respondent was given a copy of his final disability assessment only on 15 September 2018, upon his request.<sup>12</sup> Applying the foregoing provisions of law and jurisprudence, petitioner Bahia's failure to deliver the final medical assessment to respondent enervates its cause.

Resultantly, even if respondent consulted an independent physician as regards his injury, the lack of a conclusive and definite assessment from petitioner Bahia's company-assigned doctor left him with nothing to contest. It cannot shift the burden to respondent to show his unfitness to return to work when its company-assigned doctor failed to first formally notify him of his medical condition after the lapse of the 120/240-day period, whichever may be applicable. Ineludibly, by legal contemplation, respondent's disability is conclusively presumed to be permanent and total.

It did not escape notice of the Court that petitioner Bahia did not controvert respondent's claim that it did not heed his request to consult a third, independent, and neutral doctor to resolve the conflicting assessments of the company physician and his doctor of choice. Tellingly, although petitioner Bahia acknowledged that respondent asked for the opinion of a third physician, it proffered no proof of it acceding to such request. This Court reiterates the oft-cited doctrine that a seafarer's compliance with such procedure presupposes that the company-designated physician produced an assessment as to his fitness or unfitness to work before the expiration of the 120-day or 240-day periods. Suffice it to say that absent a certification from the company-designated physician, the seafarer had nothing to contest and the law steps in to conclusively characterize his disability as total and permanent.<sup>13</sup> In sooth, there was no need for respondent to even initiate the referral to a third doctor for him to be entitled to permanent disability benefits. It was by operation of law that he became permanently and totally disabled. Accordingly, he is entitled to disability payment of USD60,000.00 or its peso equivalent upon the time of payment.

All monetary awards shall earn a legal interest of six percent (6%) *per annum* from the finality of this Resolution until full satisfaction thereof, pursuant to the Court's ruling in *Nacar vs. Gallery Frames*.<sup>14</sup>

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<sup>12</sup> *Rollo*, p. 50.

<sup>13</sup> *Kestrel Shipping Co., Inc. vs. Munar*, 702 Phil. 717, 737-738 (2013).

<sup>14</sup> 716 Phil. 267-283 (2013).

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**SO ORDERED.”**

By authority of the Court:

*Mic PDC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *ibtlas*

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**G.R. No. 260161**

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<sup>13</sup> *Kestrel Shipping Co., Inc. vs. Munar*, 702 Phil. 717, 737-738 (2013).

<sup>14</sup> 716 Phil. 267-283 (2013).