

Del Rosario Pandiphil Inc.

Shipping and the Law

Court disallows disability benefits for failure to disclose previous illness

By: Ruben Del Rosario, Managing Partner, Del Rosario & Del Rosario, July 7, 2005

Summary

Seafarer failed to disclose his previous illness and did not mention the name of his last employer in his application form. The Supreme Court denied the claim for permanent disability benefits as he misrepresented his illness history. Further, the identity of his last employer which he concealed in his application form paid him disability benefits for an illness which he suffered on board said employer's vessel. This was considered by the Court as material misrepresentation which is ground for denial of disability benefits.

Facts

Seafarer worked as Tug Master on the "Grouper Ann" commencing February 24, 1998. On November 14, 1998, he requested repatriation due to his hypertension. He was requested by shipowner to wait for his replacement but nevertheless seafarer disembarked and returned to Manila on January 28, 1999. He was found to be suffering from "ischemic cardiomyopathy". He eventually died from said illness.

Her widow filed a claim for disability benefits. Manning agents denied the claim for three reasons:

1. in seafarer's application for shipboard employment, he ticked "NO" beside the question "ANY PREVIOUS ILLNESS";
2. in seafarer's employment history, he did not state the name of his last employer with whom he executed a Release and Quitclaim, dated September 26, 1997, in consideration of the illness he suffered on board his vessel of assignment
3. in a medical certificate issued by the Metropolitan Hospital on July 23, 1996, seafarer was diagnosed to have hypertension, coronary artery disease and heart failure.

The widow argued that her husband did not state his illness in his application form as he was not aware of said illness. Besides disability benefits still had to be paid as even if the illness was pre-existing, such fact will not defeat seafarer's right to claim said benefits. Seafarer underwent a thorough medical examination conducted by a physician designated by the manning agent and such manning agent had every opportunity to determine if seafarer was medically fit for the job. Further, even if the ailment was contracted prior to his employment, this still would not deprive him of compensation benefits, for what matters is that his work contributed, even in a small degree, to the development of the disease and in bringing about his eventual death.

Decision

The Labor Arbiter and the NLRC Commission denied seafarer's claim. The Court of Appeals reversed the decisions and ruled in favor of seafarer. However, the Supreme Court reversed the decision of the Court of Appeals.

The Supreme Court ruled that the evidence proves that seafarer knew of his previous illness. He committed misrepresentation when he claimed in his application form that he had no previous illness. He again committed misrepresentation when he concealed the name of his last employer. Although he claims that he did not know of his serious illness, this good faith defense is negated by his misrepresentation in his employment history. He concealed a material fact when he did not state the name of his last employer with whom he executed a Release and Quitclaim in consideration of the illness he suffered on the latter's vessel.

The claim for total disability benefits was denied.

OSM Shipping Phil. Inc. vs. Antonia De La Cruz, G.R. No. 159146, January 28, 2005

Del Rosario Pandiphil Inc.

Shipping and the Law

Court upholds voluntary arbitration clause in POEA contract; dispute must be heard by voluntary arbitrator and not the Labor Arbiter

By: Ruben Del Rosario, Managing Partner, Del Rosario & Del Rosario, August 6, 2005

Seafarer was medically repatriated on October 23, 2003. He filed a complaint for permanent disability compensation on December 4, 2003. Vessel filed a Motion to Dismiss/Refer Case to Arbitration as seafarer was a member of the union AMOSUP which has a collective bargaining agreement (CBA) with vessel and under Section 29 of the POEA Standard Employment Contract, the dispute should be brought before the National Conciliation and Mediation Board (NCMB) for voluntary arbitration.

The Labor Arbiter denied the Motion to Dismiss citing Section 10 of Republic Act No. 8042 (Overseas Migrant Workers Act) which vests in Labor Arbiters jurisdiction on claims of overseas contract workers. Vessel filed a petition for injunction before the NLRC. The NLRC ruled that the CBA must be respected and any dispute must be brought before the grievance committee. Further, Section 29 of the POEA contract provides that parties covered by a collective bargaining agreement shall submit the claim or dispute to the jurisdiction of the voluntary arbitrator or panel of arbitrators.

On appeal by the seafarer to the Court of Appeals, the Court of Appeals upheld the ruling of the NLRC. In the words of Justice Villarama Jr.:

“In the present case, the dismissal of the complaint for payment of disability benefits, sickness allowance, moral and exemplary damages, and attorney’s fees by the petitioner, a Filipino seaman who is a member of the AMOSUP, based on lack of jurisdiction of the Labor Arbiter is Section 29 of the POEA Amended Standard Employment Contract. Said provision provides for referral to voluntary arbitrators or panel of arbitrators ***in case the parties are covered by collective bargaining agreements*** such as herein petitioner. Considering that herein petitioner is claiming benefits provided under the Amended POEA Standard Employment Contract, and the terms and conditions of employment of Filipino seamen being primarily governed by the POEA Rules and Regulations, it follows that the procedure provided therein should be observed and complied with by the parties in good faith. The POEA standard employment contract is designed primarily for the protection and benefit of Filipino seamen. Further, upholding the contractual nature of employment of Filipino seafarers is merely consistent with the primacy of free collective bargaining and negotiations, including ***voluntary arbitration, mediation and conciliation***, as modes of settling labor and industrial disputes. We therefore find nothing illegal or contrary to public policy in the provision mandating the referral to voluntary arbitration of any claim or dispute arising from the POEA contract.

Gozarin vs. NLRC, et.al., CA-G.R. SP NO. 88957, May 03, 2005 (Justice Martin S. Villarama, Jr., Twelfth Division, Court of Appeals)

Note: Attys. Herbert Tria and Catherine Mangahas of Del Rosario & Del Rosario handled case for respondent vessel interests.