



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

STATUS MARITIME  
CORPORATION, MS. LOMA B.  
AGUIMAN, FAIRDEAL GROUP  
MANAGEMENT S.A., and MT  
FAIR JOLLY,

Petitioners,

- versus -

G.R. No. 198097

Present:

SERENO, C.J.,  
*Chairperson,*  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

SPOUSES MARGARITO B.  
DELALAMON and PRISCILA  
A. DELALAMON,

Respondents.

Promulgated:

**JUL 30 2014**

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DECISION

REYES, J.:

This Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, assails the Decision<sup>2</sup> dated May 27, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 108142 awarding permanent disability benefits and sickness allowance to Margarito Delalamon (Margarito).

The Facts

Margarito was hired by Status Maritime Corporation (Status Maritime), for and in behalf of its principal, Fairdeal Group Management

<sup>1</sup> Rollo, pp. 32-58.

<sup>2</sup> Penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Mario V. Lopez and Agnes Reyes-Carpio, concurring; id. at 67-81.

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S.A. (Fairdeal), as Chief Engineer with a monthly basic salary of US\$1,300.00. The employment contract was originally for a period of nine (9) months from July 26, 2005 to April 26, 2006 but Margarito later on requested for, and was granted, extension until October 2006.<sup>3</sup>

Margarito left Manila to join the vessel, M/T Fair Jolly, on July 26, 2005 and forthwith discharged his duties.<sup>4</sup> In September 2006, while the vessel was in United Arab Emirates (UAE), Margarito complained of loss of appetite. He was sent to the National Medical Center at the Port of Fujairah, UAE, for diagnosis and treatment. In a Medical Report dated September 2, 2006, Margarito was diagnosed with “*Renal Insufficiency: Diabetes Mellitus; IHD Blood+CBC+Anemia.*” He was medically repatriated on September 6, 2006.<sup>5</sup>

On December 29, 2006, Margarito and his wife Priscila (respondents) filed a complaint before the Labor Arbiter (LA) for the payment of permanent disability benefits, sickness allowance, damages and attorney’s fees against Fairdeal, M/T Fair Jolly, Status Maritime and its President, Loma B. Aguiman (petitioners). The complaint was docketed as NLRC NCR OFW Case No. (M) 06-12-03874-00.<sup>6</sup>

According to the respondents, Margarito was physically weak when he arrived in the Philippines. He thus sought to rest at home and failed to report to the petitioners. Priscilla nonetheless notified the petitioners of Margarito’s condition through a certain Allan Lopez.<sup>7</sup>

When Margarito’s medical condition worsened, he was brought to Las Piñas Doctor’s Hospital where he underwent a series of clinical and laboratory tests. Based on his 2D Echocardiography Results dated September 12, 2006, Margarito was found afflicted with “T/C RENAL INSUFFICIENCY, CORONARY ARTERY DISEASE.”<sup>8</sup>

He was again hospitalized from December 18, 2006 to January 4, 2007 at the Manila Doctor’s Hospital. Based on the medical certificate issued by Dr. Elizabeth B. Salazar-Montemayor dated January 17, 2007, Margarito was found to be suffering from “End Stage Renal Disease 2 Diabetic Nephropathy.” He was likewise diagnosed with a “Right Renal Cortical Cyst” on December 19, 2006. He thereafter underwent dialysis treatments three times a week and eventually became bedridden.<sup>9</sup>

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<sup>3</sup> Id. at 173.

<sup>4</sup> Id. at 171-172.

<sup>5</sup> Id. at 69.

<sup>6</sup> Id. at 319.

<sup>7</sup> Id. at 320-321.

<sup>8</sup> Id.

<sup>9</sup> Id.

The respondents averred that the petitioners failed to provide any medical assistance the entire time that Margarito was undergoing medical treatments for an illness he acquired while in their employ.<sup>10</sup>

For their part, the petitioners denied any liability for Margarito's monetary claims. They asserted that he failed to comply with Section 20(B), paragraph (3) of the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels (POEA-SEC) requiring him to report to the petitioners within three (3) working days from his arrival for a post-employment medical examination. He was only examined by the petitioners' designated physician on March 30, 2007 during the mandatory conference stage of the case.<sup>11</sup>

According to the petitioners, Margarito's illness is not compensable based on the medical report dated May 17, 2007 of Dr. Wilanie Romero Dacanay of the Marine Medical Services of Metropolitan Medical Center stating that "Chronic Kidney Disease secondary to Diabetic Nephropathy" is NOT work-related.<sup>12</sup> The petitioners further averred that during initial evaluation by their physicians, Margarito claimed to have been diagnosed with diabetes 6 years ago and has, since then, been taking 500 mg of Metformin as maintenance medication.<sup>13</sup> Based thereon, the petitioners argued that Margarito concealed his illness when he was subjected to a Pre-Employment Medical Examination (PEME) hence disqualified from claiming disability benefits.

Pending the decision of the LA, Margarito died on September 11, 2007. His cause of death was "CVA" or Cardiovascular Accident.<sup>14</sup>

### **Ruling of the LA**

In a Decision<sup>15</sup> dated September 28, 2007, the LA found no merit in the respondents' complaint for the reason that Margarito's illness is not work-related, *thus*:

"WHEREFORE, premises considered judgment is hereby rendered  
**DISMISSING** this case for lack of merit.

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<sup>10</sup> Id. at 321.

<sup>11</sup> Id. at 321-322.

<sup>12</sup> Id. 174-175

<sup>13</sup> Id.

<sup>14</sup> Id. at 72.

<sup>15</sup> Issued by LA Fedriel S. Panganiban; id. at 319-326.

SO ORDERED.”<sup>16</sup>

### **Ruling of the NLRC**

The NLRC affirmed the LA’s ruling and added that Margarito did not even bother to comply with the mandatory requirement of reporting to the petitioners’ office within three (3) days from his disembarkation for post-employment medical examination pursuant to Section 20 (B)[3] of the POEA-SEC. The NLRC Resolution<sup>17</sup> dated October 23, 2008 disposed as follows:

“WHEREFORE, premises considered, the appealed Decision is hereby AFFIRMED in toto. The instant appeal is hereby, DISMISSED for lack of merit.

SO ORDERED.”<sup>18</sup>

### **Ruling of the CA**

The respondents elevated the case to the CA and, in support of their position that Margarito’s illness is work-related, proffered the June 25, 2007 medical evaluation of Dr. Efren R. Vicaldo (Dr. Vicaldo) of Philippine Heart Center, articulating thus:

This patient/seaman presented with history of nausea and anorexia noted on June 2006 for which he was seen in United Arab Emirates. He underwent blood chemistry examination and abdominal ultrasound and was diagnosed as kidney disease. History revealed that he is also a known diabetic for six years now and maintained on Metformin three times a day.

He was repatriated on September 8, 2006 and was subsequently confined at Las Piñas Doctor’s Hospital. He underwent creation of arterio-venous fistula on the left arm as access to future hemodialysis. Since then he underwent regular hemodialysis at Manila Doctor’s Hospital two to three times a week on the average. Latest laboratory exams done on June 19, 2007 showed significant elevation of his creatinine and potassium.

When seen at the clinic his blood pressure was 130/90 mmHg; PE of the heart and lungs were unremarkable and he presented with hemodialysis access on his left arm (sic).

He is now unfit to resume work as seaman in any capacity.

His illness is considered work aggravated/related.

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<sup>16</sup> Id. at 326.

<sup>17</sup> Penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioners Victoriano R. Calaycay and Angelita A. Gacutan; id. at 308-317.

<sup>18</sup> Id. at 316.

He requires regular hemodialysis to maintain his creatinine level as well as his serum electrolytes especially sodium and potassium.

Undergoing regular hemodialysis obviously impairs his quality of life. In general, patients with end stage renal disease have significant reduction in their life expectancy.

He is not expected to land a gainful employment given his medical background.<sup>19</sup>

In its Decision<sup>20</sup> dated May 27, 2011, the CA reversed the findings of the labor tribunals. The CA held that Margarito was exempt from complying with the 3-day mandatory reporting requirement because when he arrived in the Philippines, his physical condition was already deteriorating and was in need of urgent medical attention. Thus, it could not be expected of him to prioritize the reporting requirement before attending to his medical needs. Also, his wife actually notified the petitioners of his medical condition, through Allan Lopez.

The CA further ruled that Margarito's cause of death is actually listed as an occupational disease under the POEA-SEC. While his renal disease is not similarly listed, it is nonetheless disputably presumed work-related pursuant to Section 32-A (11) of the POEA-SEC. His employment contributed to the development and exacerbation of his illness considering that he was on board the vessel for 14 months during which he was exposed to stress, different climates and erratic time zones. The CA declared Margarito's illness as a total disability since he had to undergo dialysis three (3) times a week and was in need of regular medical aid that prevented him from seeking gainful employment. Following Section 32 of the POEA-SEC which assigns a Grade 1 disability to "(s)evere residuals of impairment of intra-abdominal organs which requires regular aid and attendance that will unable worker to seek any gainful employment", Margarito's disability due to 'End Stage Renal Disease 2 Diabetic Nephropathy' was also given a Grade 1 rating. Accordingly, the respondents' claims for sickness allowance and permanent disability benefits were granted as follows:

**WHEREFORE**, the petition is partly granted and the Resolutions dated October 23, 2008 and January 23, 2009 of (the) NLRC are nullified and set aside. (Petitioners) are ordered to pay the heirs of (respondent) Margarito Delalamon sickness allowance of US\$5,200.00 and disability compensation of US\$60,000.00

**SO ORDERED.**<sup>21</sup>

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<sup>19</sup> Id. at 199.

<sup>20</sup> Id. at 13-27.

<sup>21</sup> Id. at 80.

The petitioners moved for reconsideration<sup>22</sup> but the motion was denied in the CA Resolution<sup>23</sup> dated August 4, 2011. Hence, the present appeal.

### **Arguments of the Parties**

The petitioners aver that Margarito is disqualified from claiming any illness benefit on three grounds: (1) his diabetes is a pre-existing illness which he concealed during his PEME; (2) he failed to submit himself for post-employment medical examination to the petitioners' designated physicians within three (3) days upon his return; and (3) the respondents failed to specifically allege or prove by substantial evidence that Margarito's working conditions has causal relation to or increased his risk of contracting his illness.<sup>24</sup>

The respondents, on the other hand, contend that the CA judiciously and correctly awarded Margarito with permanent disability benefits and sickness allowance. They posit that Margarito acquired his illness of "*Renal Insufficiency; Diabetes Mellitus; IHD Blood + CBC +ANEMIA*" during the term of his employment with the petitioners. They further argued that Margarito was very sick when he arrived in the Philippines and thus physically incapable of reporting to the petitioners' office for post-employment medical examination.

They denied that Margarito concealed his illness and claimed that the petitioners' physicians, who subjected him to rigid and rigorous PEME, actually found him fit to work. They argued that the compensability of an illness does not depend on whether it was pre-existing but rather if it is work-related or work-aggravated which, in this case, was found by the CA to have been substantially established.<sup>25</sup>

### **Ruling of the Court**

We find merit in the petition.

Preliminarily, it must be emphasized that at the core of the foregoing arguments are factual questions which, generally, are outside the Court's discretionary appellate jurisdiction under Rule 45.

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<sup>22</sup> Id. at 82-108.

<sup>23</sup> Id. at 110.

<sup>24</sup> Id. at 32-65.

<sup>25</sup> Id. at 259-274.

The Court is not a trier of facts hence, only questions of law, may be raised in a petition for review on *certiorari*. It is not the Court's function to analyze or weigh evidence all over again in view of the corollary legal precept that findings of fact of the CA are conclusive and binding on this Court. Nevertheless, the Court will proceed to probe and resolve factual issues when any of these exceptional circumstances are present, *viz*: when there is insufficient or insubstantial evidence to support the findings of the tribunal or the court below, or when too much is concluded, inferred or deduced from the bare or incomplete facts submitted by the parties or,<sup>26</sup> where the findings of the CA are contrary to those of the LA and the NLRC.<sup>27</sup>

Observably, the third exception is attendant in the present case hence, it is imperative to review the records to determine which finding is more conformable to the evidentiary facts.

**In view of the factual milieu of the case, the 3-day mandatory reporting requirement can be dispensed with.**

As a general rule, a medically repatriated seafarer is required to submit himself to a post-employment medical examination by the company's designated physicians within three (3) working days upon his return. This is extant from Section 20(B)(3) of the 2000 POEA SEC, *viz*:

#### B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel;
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. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is

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<sup>26</sup> *Magsaysay Maritime Services v. Laurel*, G.R. No. 195518, March 20, 2013, 694 SCRA 225, 236.

<sup>27</sup> *Esguerra v. United Philippines Lines, Inc.*, G.R. No. 199932, July 3, 2013, 700 SCRA 687, 696.

declared fit to work, or the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

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. 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. (Emphasis ours)

The purpose of the rule is to allow the employer's doctors a reasonable opportunity to assess the seafarer's medical condition in order to determine whether his illness is work-related or not. As explained in *Jebsens Maritime, Inc. v. Undag*:<sup>28</sup>

The rationale behind the rule can easily be divined. Within three days from repatriation, it would be fairly easier for a physician to determine if the illness was work-related or not. After that period, there would be difficulty in ascertaining the real cause of the illness.

To ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. It would certainly be unfair to the employer who would have difficulty determining the cause of a claimant's illness considering the passage of time. In such a case, the employers would have no protection against unrelated disability claims.<sup>29</sup>

Equally outlined in the provision is the single instance which exempts a medically repatriated seafarer from complying with the 3-day mandatory reporting rule that is – when he is physically incapacitated to do so, in which case a written notice of such fact to the employer within the same period shall be deemed as sufficient compliance.

We applied the exemption in *Wallem Maritime Services, Inc. v. NLRC*<sup>30</sup> and excused the failure of the seafarer to report within the three-day period for the reason that when he disembarked from the vessel, he was terminally ill and in need of urgent medical attention. His employer manning agency was also found sufficiently notified when his wife went to the office a month later to inquire about his husband's sickness benefits.<sup>31</sup>

<sup>28</sup> G.R. No. 191491, December 14, 2011, 662 SCRA 670.

<sup>29</sup> Id. at 680-681.

<sup>30</sup> 376 Phil. 738 (1999).

<sup>31</sup> Id. at 748-749.



The very same circumstances exist in the present factual setting. When Margarito was repatriated on September 6, 2006 he was already suffering from “*Renal Insufficiency: Diabetes Mellitus; IHD Blood+CBC+Anemia.*” Less than a week thereafter, he was confined at the Las Piñas Doctor’s Hospital for the same ailment of renal insufficiency but this time aggravated by coronary artery disease. He started undergoing hemodialysis treatments in December when his ailment worsened to end stage renal disease due to a cyst at the right renal cortical. He became bedridden thereafter until he passed away on September 11, 2007.

The medical episodes that transpired after his disembarkation from the vessel show that he was already in a deteriorating physical condition when he arrived in the Philippines. Thus, it cannot be reasonably expected of him to prioritize the errand of personally reporting to the petitioners’ office instead of yielding to the physical strain caused by his serious health problems.

The petitioners were likewise put on sufficient notice about the failing health condition of Margarito because they knew very well that he was diagnosed with a serious illness in UAE. Notwithstanding the fact that Priscila’s claim of notice to petitioners through a certain Allan Lopez was unsubstantiated by any documentary or other corroborative evidence, the petitioners were nonetheless aware that Margarito was seriously ill as they are presumed furnished with a copy of the diagnosis made on Margarito in UAE.

The strategic opportunity which the 3-day period grants to an employer within which to subject the seafarer to a post-employment medical examination was not sullied since the findings of the doctors in UAE were merely confirmed by the findings of the petitioners’ physicians in the Philippines when Margarito was finally examined by the latter on May 17, 2007. Certainly, the findings of Dr. Dacanay that Margarito was suffering from “Chronic Kidney Disease secondary to Diabetic Nephropathy” is merely confirmatory of the findings of the UAE doctors that he was afflicted with “*Renal Insufficiency: Diabetes Mellitus.*” Although couched in different medical terminologies, both findings carried the similar fundamental connotation that Margarito was afflicted with a kidney disease as a complication of his diabetes mellitus. Such similarity negated any misgivings that the work-relatedness of his illness could not be truthfully determined. Work-relatedness can be competently determined based either on the initial diagnosis in UAE or the medical report of petitioners’ physicians 253 days after Margarito’s medical repatriation.

Except for the fact that “Chronic Kidney Disease secondary to Diabetic Nephropathy” is an aggravated version of “*Renal Insufficiency: Diabetes Mellitus*”, the basic connotation of both findings remained the same the entire 253 days that lapsed – Margarito is afflicted with a kidney disease as a complication of his diabetes mellitus. As such, the difficulty which the 3-day mandatory reporting rule seeks to prevent did not happen.

**Nevertheless, Margarito is disqualified from receiving compensation benefits for knowingly concealing his pre-existing illness of diabetes.**

Notwithstanding that his failure to report within 3-days is excusable, Margarito is still disqualified from receiving any compensation or benefits for his illness because he did not disclose during his PEME that he was suffering from diabetes. Section 20(E) of the POEA-SEC is clear on this matter, viz:

#### SECTION 20. COMPENSATION AND BENEFITS

X X X X

**E. A seafarer who knowingly conceals and does not disclose past medical condition, disability and history in the pre-employment medical examination constitutes fraudulent misrepresentation and shall disqualify him from any compensation and benefits.** This may also be a valid ground for termination of employment and imposition of the appropriate administrative and legal sanctions. (Emphasis ours)

The following portions of Dr. Dacanay’s medical report dated May 17, 2007 show that Margarito knowingly concealed his pre-existing illness of diabetes when he was subjected to PEME:

**“Based on patient’s Pre-Employment Medical Examination dated July 21, 2005, patient has unremarkable past medical history and was pronounced fit to work as seaman during that time.**

**However, during patient’s initial evaluation, he claimed to be diabetic for almost 6 years and was diagnosed in a clinic in Parañaque and was maintained on Metformin 500mg since then.**

He was seen by a Nephrologist during his initial evaluation who agreed with the diagnosis of Chronic Kidney Disease secondary to Diabetic Nephropathy.”<sup>32</sup> (Emphasis ours)

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<sup>32</sup> Rollo, p. 175.

This is confirmed by the medical evaluation of Margarito's own physician, Dr. Vicaldo stating as follows:

This patient/seaman presented with history of nausea and anorexia noted in June 2006 for which he was seen in United Arab Emirates. He underwent blood chemistry examination and abdominal ultrasound and was diagnosed as kidney disease (sic). **History revealed that he is also a known diabetic for six years now and maintained on Metformin three times a day.**

x x x x<sup>33</sup> (Emphasis supplied)

The fact that Margarito passed his PEME cannot excuse his willful concealment nor can it preclude the petitioners from rejecting his disability claims. PEME is not exploratory and does not allow the employer to discover any and all pre-existing medical condition with which the seafarer is suffering and for which he may be presently taking medication. The PEME is nothing more than a summary examination of the seafarer's physiological condition;<sup>34</sup> it merely determines whether one is "fit to work" at sea or "fit for sea service" and it does not state the real state of health of an applicant. The "fit to work" declaration in the PEME cannot be a conclusive proof to show that he was free from any ailment prior to his deployment.<sup>35</sup>

Thus, for knowingly concealing his diabetes during the PEME, Margarito committed fraudulent misrepresentation which under the POEA-SEC unconditionally barred his right to receive any disability compensation or illness benefit.

This finding renders any issue on work-relatedness irrelevant since the premise which bars disability compensation is the fraudulent misrepresentation of a pre-existing disease and not the fact that it was pre-existing.

**Even if we were to disregard Margarito's fraudulent misrepresentation, his claim will still fail.**

It is evident from the foregoing medical reports of Drs. Dacanay and Vicaldo that when Margarito applied for and was given employment by the

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<sup>33</sup> Id. at 199.

<sup>34</sup> *Philman Marine Agency, Inc. (now DOHLE-PHILMAN Manning Agency, Inc.) v. Cabanban*, G.R. No. 186509, July 29, 2013, 702 SCRA 467, 491.

<sup>35</sup> *Magsaysay Maritime Corporation v. National Labor Relations Commission (Second Division)*, G.R. No. 186180, March 22, 2010, 616 SCRA 362, 378-379.

petitioners on July 26, 2005, he was already afflicted with diabetes. This means that he did not acquire his illness while working in the petitioner's vessel and thus his diabetes is not work-related.

A similar conclusion was arrived at in the recent *Philman Marine Agency, Inc. v. Cabanban*,<sup>36</sup> involving a seafarer who concealed during his PEME that he had hypertension, *thus*:

x x x We note that Dr. Ranjan of the Fujairah Port Clinic stated in his report that Armando was a "known case of HT, on atenolol 50 mg OD [for five years]." **The import of this statement cannot be disregarded as it directly points to Armando's willful concealment; it also shows that Armando did not acquire hypertension during his employment and is therefore not work-related.**<sup>37</sup>

It is true that the pre-existence of an illness does not irrevocably bar compensability because disability laws still grant the same provided the seafarer's working conditions bear causal connection with his illness.<sup>38</sup>

These rules, however, cannot be asserted perfunctorily by the claimant as it is incumbent upon him to prove, by substantial evidence, as to how and why the nature of his work and working conditions contributed to and/or aggravated his illness.<sup>39</sup> The respondents failed to discharge this burden of proof.

No evidence is on record showing the specific essential facts on how and why Margarito's working conditions exacerbated his diabetes which in turn gave rise to its various complications, one of which led to his death. The respondents failed to particularly describe his working conditions while on sea duty. Also, no expert medical opinion was presented regarding the causes of his diabetes.

On record are mere general statements presented as self-serving allegations which were not validated by any written document visibly demonstrating<sup>40</sup> that the working conditions on board the vessel served to worsen Margarito's diabetes.

In their petition before the CA, the respondents vaguely claimed:

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<sup>36</sup> Supra note 34.

<sup>37</sup> Id. at 491.

<sup>38</sup> Supra note 35, at 373-374.

<sup>39</sup> *Aya-ay, Sr. v. Arpaphil Shipping Corp.*, 516 Phil. 628, 639-640 (2006).

<sup>40</sup> See *Quizora v. Denholm Crew Management (Philippines), Inc.*, G.R. No. 185412, November 16, 2011, 660 SCRA 309, 320.

The work of the Chief Engineer, including the daily routines in the vessel's engine department, necessarily expose[d] him to these factors emanating therefrom, in all kinds of weather conditions. x x x.<sup>41</sup>

x x x x

[T]he job of a chief engineer is strenuous and stressful. Moreover, [Margarito] was exposed to hostile working condition and environment. He was exposed to unhealthy diet on the board the vessel, extreme hot and cold weather and likewise he was exposed to hazardous chemicals and substances that are stored in the engine room of the vessel. x x x.<sup>42</sup>

At the very least, these general statements surmise mere possibilities but not the probability required by law for disability compensation. Mere possibility will not suffice and a claim will still fail if there is only a possibility that the employment caused or aggravated the disease.<sup>43</sup> Even considering that the respondents have shown probability, their basis is, nonetheless incompetent for being uncorroborated. Probability of work-connection must at least be anchored on credible information<sup>44</sup> and not on self-serving allegations.

Likewise deficient is Dr. Vicaldo's one-line statement in his June 25, 2007 Medical Report that "[Margarito's] illness is considered work aggravated/related"<sup>45</sup> as it did not supply the specific cause of Margarito's diabetes.

Certainly, disability compensation cannot rest on mere allegations couched in conjectures and baseless inferences from which work-aggravation or relatedness cannot be presumed. "[B]are allegations do not suffice to discharge the required quantum of proof of compensability. Awards of compensation cannot rest on speculations or presumptions. The beneficiaries must present evidence to prove a positive proposition."<sup>46</sup>

Moreover, the very nature of diabetes does not indicate work-relatedness. The World Health Organization defines diabetes mellitus as a metabolic disorder of multiple etiology characterized by chronic hyperglycemia with disturbances of carbohydrate, fat and protein metabolism resulting from defects in insulin secretion, insulin action, or both.<sup>47</sup> It is a metabolic and a familial disease to which one is pre-disposed by reason of heredity, obesity or old age.<sup>48</sup>

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<sup>41</sup> *Rollo*, pp. 127-128.

<sup>42</sup> *Id.* at 181.

<sup>43</sup> *Gabunas, Sr. v. Scanmar Maritime Services Inc.*, G.R. No. 188637, December 15, 2010, 638 SCRA 770, 781. (Citation Omitted)

<sup>44</sup> *Id.*

<sup>45</sup> *Supra* note 19.

<sup>46</sup> *Supra* note 43, at 779.

<sup>47</sup> C Unachukwu, S Ofori. Diabetes Mellitus And Cardiovascular Risk. The Internet Journal of Endocrinology. 2012 Volume 7 Number 1. ( <http://ispub.com/IJEN/7/1/14021>; last visited July 14, 2014)

<sup>48</sup> *De Guia v. Employees' Compensation Commission*, G.R. No. 95595, July 8, 1991, 198 SCRA 834, 836.

Definitely, work-relatedness cannot be deduced from heredity and old age. Neither can diabetes by reason of obesity be compensable owing to the fact that obesity is “excess body weight, defined as a body mass index (BMI) of  $\geq 30$  kg/m<sup>2</sup>,” which ultimately results from a long-standing imbalance between energy intake and energy expenditure. 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.<sup>49</sup>

While cerebrovascular accident which was the proximate cause of Margarito’s death is listed as an occupational disease under Section 32 of the POEA-SEC and the Implementing Rules and Regulations of Title II, Book VI of the Labor Code, its compensability, however, must conform to following additional conditions, *viz*:

- (a) There must be a history, which should be proved, or trauma at work (to the head specially) due to unusual and extraordinary physical or mental strain or event, or undue exposure to noxious gases in industry.
- (b) There must be a direct connection between the trauma or exertion in the course of employment and the worker’s collapse.
- (c) If the trauma or exertion then and there caused a brain hemorrhage, the injury may be considered as arising from work.

Records do not show that these conditions were met. Also, Margarito’s CVA set in a year after he has been medically repatriated. More importantly, CVA was actually the resulting complication of his underlying illness of diabetes.

Diabetes mellitus is a chronic condition that has the potential to have significant adverse effects on the quality of life of the patient as a result of its microvascular and macrovascular complications. The microvascular events include retinopathy, nephropathy and neuropathy. While these markedly increase the morbidity of persons with DM, it is the macrovascular complications (cardiovascular disease) that account for the increased mortality in this population.<sup>50</sup>

It is recognized that people with diabetes have an increased prevalence of cardiovascular diseases and diabetes can be said to be a condition of premature cardiovascular complications in the setting of chronic hyperglycemia. Cardiovascular disease (refers to disease of the heart and circulatory system) is the leading cause of death in people with DM.<sup>51</sup>

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<sup>49</sup> Supra note 34, at 492-493.

<sup>50</sup> Supra note 47.

<sup>51</sup> Id.

The same is true with respect to his chronic renal ailment. The medical findings presented by both parties uniformly show that Margarito's renal ailment was contracted as a complication of his diabetes from which he has been suffering for 6 years prior to his employment with the petitioners.

Thus, it cannot be said that his risk of contracting renal insufficiency or CVA was increased by his working conditions because irrespective thereof, his complications would have set in because of his diabetic condition.

In sum, the CA erred in finding grave abuse of discretion on the part of the NLRC when the latter affirmed the LA's dismissal of Margarito's complaint for permanent disability benefits and sickness allowance.

In as much as we commiserate with Margarito's widow, the Court's commitment to the cause of labor is not a lopsided undertaking. It cannot and does not prevent us from sustaining the employer when it is in the right. The constitutional policy to provide full protection to labor is not meant to be a sword to oppress employers. Justice, is, in every case for the deserving, and it must be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.<sup>52</sup>

**WHEREFORE**, all the foregoing considered, the petition is **GRANTED**. The Decision dated May 27, 2011 of the Court of Appeals in CA-G.R. SP No. 108142 is **REVERSED** and **SET ASIDE**. Accordingly, the respondents' complaint docketed as NLRC NCR OFW Case No. (M) 06-12-03874-00 before the Labor Arbiter is **DISMISSED**.

**SO ORDERED.**


  
**BIENVENIDO L. REYES**  
Associate Justice

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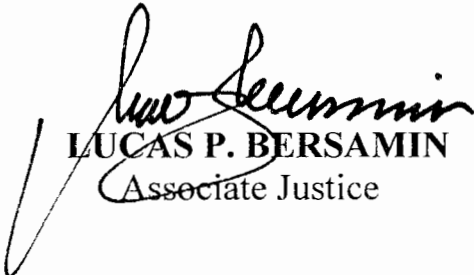
<sup>52</sup>


Supra note 35, at 380-381.

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson


  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

