Republic of the Philippines
Supreme Court
Manila

## SECOND DIVISION

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| **PHILIPPINE TRANSMARINE CARRIERS, INC./NORWEGIAN CREW MANAGEMENT,** *Petitioners,* | **G.R. No. 201793** |
| - versus - | Present: CARPIO, *Chairperson,* DEL CASTILLO, PEREZ,* MENDOZA, *and* LEONEN, *JJ.* |
| **JULIA T. ALIGWAY (as substitute for her deceased husband, DEMETRIO ALIGWAY, JR.),** *Respondent.* | Promulgated: 16 SEP 2015 |

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# DECISION

**DEL CASTILLO, *J.*:**

This Petition for Review on *Certiorari*[1] assails the February 20, 2012 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 120589. The CA granted the Petition for *Certiorari* filed therewith and accordingly, nullified the February 24, 2011 Decision[3] and May 11, 2011 Resolution[4] of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW(M) 12-001028-10 which, in turn, affirmed the August 31, 2010 Decision[5] of Labor Arbiter Geobel A. Bartolabac (LA) in NLRC NCR Case No. OFW(M) 01-01214-10 dismissing the Complaint for lack of merit. Also assailed is the May 11, 2012 CA Resolution[6] which denied the Motion for Reconsideration filed by Demetrio Aligway, Jr. (Demetrio).

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* Per Special Order No. 2191 dated September 16, 2015.

1 *Rollo*, pp. 4-42.

2 CA *rollo*, pp. 246-254; penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Sesinando E. Villon and Stephen C. Cruz.

3 Id. at 28-38; penned by Presiding Commissioner Gerardo C. Nograles and concurred in by Commissioners Perlita B. Velasco and Romeo L. Go.

4 Id. at 39-40.

5 Id. at 147-153.

6 Id at 290.

***Factual Antecedents***

On November 25, 2008, the Philippine Transmarine Carriers, Inc. (PTC), for and in behalf of its foreign principal, the Norwegian Crew Management (NCM), employed Demetrio as chief cook on board the vessel Amasis. Demetrio's employment contract was for nine months with a monthly salary of US$758.00.[7]

Demetrio alleged that prior to his deployment, he underwent pre-employment medical examination (PEME) and was declared fit to work.[8] Thereafter, while aboard the vessel, he suffered from "vomiting, anorexia, weight loss, and palpitations followed by dizziness and a feeling of lightheadedness."[9] As a result, on April 22, 2009,[10] he was medically repatriated.

Demetrio claimed that despite medical examinations by the company-designated physician, his illness persisted beyond 120 days.[11] This condition allegedly rendered him incapacitated to work again as a seafarer but the PTC and the NCM refused to pay him disability benefits.[12]

Consequently, Demetrio filed a Complaint[13] dated January 22, 2010 for disability benefits, moral and exemplary damages, and attorney's fees against the PTC, the NCM, and their officers. He alleged that his work as chief cook, which involved food intake, contributed to or aggravated his gastric cancer. He claimed that although the cause of gastric cancer was unknown, there was speculation that smoked food may be promoting factors.[14]

Demetrio invoked the presumption laid down in the provision of the POEA[15] Standard Employment Contract (SEC) that his illness was work-related.[16] He also averred that he passed the PEME;[17] and that as such, the PTC, the NCM, and their officers were estopped from claiming that he was unfit to work prior to his deployment or that he did not contract his illness aboard the vessel.[18] He likewise argued that because the vessel Amasis was covered by a collective bargaining agreement (CBA), it stands to reason that he was entitled to the benefits stipulated in that agreement.[19]

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7 Id. at 41.
8 Id. at 53.
9 Id. at 53.
10 Id. at 42.
11 Id. at 53.
12 Id. at 54.
13 Id. at 48-49.
14 Id. at 56.
15 Philippine Overseas Employment Administration
16 CA *rollo*, p. 56.
17 Id. at 135.
18 Id. at 57.
19 Id. at 64.

The PTC, the NCM and their officers did confirm that on December 25, 2008, Demetrio boarded the vessel; that on April 20, 2009, he was brought to the Entabeni Hospital in Durban due to gastritis; and that eventually, he was repatriated for further treatment.[20]

The PTC, the NCM, and their officers however contended that Demetrio was a heavy smoker, and that he was smoking 12 to 15 cigarette sticks a day;[21] that the company-designated physician Dr. Susannah Ong-Salvador (Dr. Salvador), declared that Demetrio's condition was not work-related; and that the risk factors in Demetrio's condition included age, diet rich in saturated fat, fatty acid, linoleic acid, and genetic predisposition.[22]

The PTC, the NCM, and their officers also argued that stomach cancer is asymptomatic – or an illness that has nonspecific symptoms in its early stage and only becomes apparent when in the advanced stage already; that since Demetrio was only about four months aboard the vessel when the symptoms of his cancer manifested, then it could not be inferred that he acquired it during his employment with them;[23] and, that while Demetrio's contract was covered by an AMOSUP[24] CBA, this CBA did not include non-occupational illnessess, such as gastric cancer.[25]

In sum, the PTC, the NCM, and their officers maintained that Demetrio's work involved food preparation and not food intake;[26] that the company-designated doctor found that the cause of his illness was not work-related;[27] that there was no evidence to indicate that his working conditions increased the risk of contracting it; that there was no evidence that his illness was caused by the food being served on the vessel;[28] and, that no causal connection was established between Demetrio's work as chief cook and his gastric or stomach cancer.[29]

***Ruling of the Labor Arbiter***

On August 31, 2010, the LA rendered a Decision[30] dismissing the Complaint for lack of merit. The LA held that the company-designated physician declared that Demetrio's illness was not work-related; and that because of this, the burden fell on the latter to disprove the finding of the company-designated doctor.

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20 Id. at 72.
21 Id.
22 Id. at 73.
23 Id. at 77.
24 Associated Marine Officers' and Seamen's Union of the Philippines.
25 CA *rollo*, p. 72.
26 Id. at 139.
27 Id. at 83.
28 Id. at 139.
29 Id. at 77.
30 Id. at 147-153.

The LA ruled that Demetrio failed to discharge this burden because he adduced no evidence proving that his work increased the risk of contracting stomach cancer.

***Ruling of the National Labor Relations Commission***

On appeal, the NLRC affirmed the Decision of the LA.[31] It gave credence to the medical opinion of the company-designated physician. It opined that aside from bare allegations, Demetrio adduced no competent evidence to prove that his stomach cancer was caused or aggravated by the working conditions on the vessel.

On May 11, 2011, the NLRC denied[32] Demetrio's Motion for Reconsideration.

***Ruling of the Court of Appeals***

Demetrio thereafter filed a Petition for *Certiorari* with the CA imputing grave abuse of discretion against the NLRC in not granting him full disability benefits despite his alleged work-related illness that manifested during his last contract with the PTC and the NCM.

On February 20, 2012, the CA rendered the assailed Decision,[33] the decretal portion of which reads:

> ACCORDINGLY, the petition is GRANTED. The Decision dated February 24, 2011 and Resolution dated May 11, 2011 are nullified and [a] new one rendered, directing private respondents to pay petitioner full disability benefits and attorney's fees equivalent to 10% thereof.
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> The Motion for Substitution of Parties dated January 25, 2012, praying that Mrs. Julia T. Aligway be substituted as petitioner, in lieu of her husband Demetrio Aligway Jr., who died on December 26, 2011, is granted. The caption of the case is amended to reflect the name of Mrs. Julia T. Aligway, as substitute petitioner.
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> SO ORDERED.[34]

The CA decreed that the LA and the NLRC improperly relied on the findings of the company-designated physician. It held that said doctor merely referred to medical literature to explain Demetrio's condition without personally examining him; that Dr. Salvador did not discuss how Demetrio's work and

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31 Id. at 28-38.
32 Id. at 39-40.
33 Id. at 246-254.
34 Id. at 253.

working environment could have caused or aggravated his illness; that the opinion of Dr. Salvador lacked accuracy and was hypothetical, if not purely academic; and that Dr. Salvador was not Demetrio's original attending physician.

In conclusion, the CA held that the presumption of compensability prevails and that Demetrio is entitled to full disability benefits pursuant to the CBA.

On May 11, 2012, the CA denied[35] the Motion for Reconsideration.

Hence, the PTC and the NCM filed this Petition contending that:

> THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS, REVERSIBLE AND GROSS ERROR IN LAW BASED ON THE FOLLOWING GROUNDS:
>
> A. In ignoring the legal precept that findings of facts of the NLRC are accorded respect and finality when supported by substantial evidence[.]
>
> B. In ignoring the declaration of the company[-]designated physician finding the illness to be not work[-]related thereby violating the terms of the POEA contract giving authority to the company[-designated] doctor to assess the illness involved.
>
> C. In profoundly relying on inapplicable jurisprudence which finds no parallelism to the instant case.
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> D. In upholding the applicability of the alleged CBA in awarding USD$110,000.00 even if its provisions limit the liability of the Employer to work[-]related accidents only.
>
> E. In awarding attorney's fees without legal and factual basis.[36]

The PTC and the NCM insist that the medical opinion of the company-designated physician stood unchallenged since Demetrio did not consult his own physician for a contrary opinion; that the opinion of the company-designated doctor cannot be superseded or rescinded by mere speculation that the seafarer's illness was work-connected; and, that prior to the aforesaid declaration of the company-designated doctor, Demetrio underwent a series of examinations and treatments, which tended to show that the declaration of the company-designated physician was not arrived at capriciously.

The PTC and the NCM moreover fault the CA for holding that Dr. Salvador was not the original doctor who examined Demetrio; that the medical opinion of the company-designated doctor should not be taken singly but as the collective opinion of a team of doctors who worked together in arriving at a

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35 Id. at 290.

36 *Rollo*, pp. 14-15.

declaration regarding the seafarer's condition; and, that Dr. Salvador merely reported the conclusion reached collectively by the medical experts in the team.

The PTC and the NCM insist that stomach cancer is often asymptomatic; that since Demetrio was only about four months aboard the vessel when the symptoms of his stomach cancer manifested, then it is an open question whether he acquired his illness on board the vessel; that the burden of proof to establish work-relation is upon the seafarer; and, that in this case, there is no showing that the nature of Demetrio's work as well as the working conditions in the vessel increased the risk of his acquiring stomach cancer.

Finally, the PTC and the NCM take the position that the CBA does not apply here because its provisions limit the employer's liability to occupational injury as a result of an accident or to occupational disease suffered by the employee; and, that given that stomach cancer is not listed as an occupational disease, it would be erroneous to award disability benefits pursuant to the CBA; hence, the CA improperly awarded attorney's fees considering that the CA gave no explanation for that award.

For her part, Julia Aligway (Julia), as substitute for her deceased husband Demetrio, contends that Dr. Salvador did not explain why Demetrio's illness was not work-related; that there is in fact substantial evidence that Demetrio's illness was work-related; that environmental factors, which include conditions in ocean-going vessels, contributed to Demetrio's illness; that Demetrio had passed his PEME and was aboard the vessel when he suffered from his illness; and, that his work as chief cook was all about food intake and this circumstance did contribute to and aggravate his stomach cancer.

## Issue

In fine, the core issue before us is whether the CA erred in holding that the NLRC committed grave abuse of discretion in denying Demetrio's appeal and in affirming the dismissal of the complaint for lack of merit.

## Our Ruling

As a rule, in a petition for review under Rule 45 of the Rules of Court, only questions of law can be raised and be reviewed by this Court. However, this rule admits of exceptions and one such exception is where the Court may make its own evaluation of the evidence adduced by the parties because the factual findings of the tribunals or courts *a quo* are in conflict with each other.[37] In this case, the LA,

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[37] *The Heirs of dela Cruz v. Phil. Transmarine Carriers Inc.*, G.R. No. 196357, April 20, 2015.

as affirmed by the NLRC, found that Demetrio was not entitled to disability benefits, among other claims, and dismissed his complaint for lack of merit. The CA ruled otherwise. Thus, because of the conflicting findings of fact of the LA and NLRC, on one hand, and of the CA, on the other, this Court has to exercise its mandated authority to examine the evidence on record.

We stress that entitlement of seafarers to disability benefits is governed by medical findings, law and contract. Articles 191 to 193 under Chapter VI (Disability Benefits) of Book IV of the Labor Code set forth the applicable provisions concerning disability benefits. Also, the POEA-SEC and the CBA bind the seafarer and his employer to each other.[38]

In this case, considering that Demetrio did not suffer from an occupational disease – or such diseases listed under Section 32-A of the 2000 POEA-SEC – it stands to reason that to be entitled to disability benefits, he must establish that he suffered from a work-related injury or illness.

Under Section 20(B) of the 2000 POEA SEC, for disability to be compensable, (1) the seafarer's injury or illness must be work-related; and (2) the work-related injury or illness must have existed during the term of his employment contract. Hence, the seafarer must not only show that he suffers from an illness or injury that rendered him permanently or partially disabled, but he must also prove that there is a causal relation between his illness or injury and the work for which he had been engaged.[39]

This Court has held that a person who claims entitlement to the benefits provided by law must establish his right thereto by substantial evidence or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[40] This Court cannot grant a claim for disability benefits without such substantial evidence because to do so would be offensive to due process. Hence, the burden is on the seafarer to prove that he suffered from a work-related injury or illness during the term of his contract.[41]

In this case, Demetrio failed to discharge this burden. He failed to prove the required causal connection between his stomach cancer and his work as chief cook aboard the vessel.

In his Position Paper,[42] Demetrio admitted that the cause of stomach cancer was unknown, but stressed that there is speculation that smoked food may be

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38 *Repizo v. Senator Crewing (Manila), Inc.*, G.R. No. 214334, Unsigned Resolution, November 17, 2014.
39 Id.
40 Id.
41 Id.
42 CA *rollo*, pp. 50-60 at 56-58.

promoting its development; that his illness is presumed to be work-related; and that since he had passed the PEME, this estopped the PTC and the NCM from claiming that he was unfit to work prior to his deployment or that he did not contract his illness on board the vessel.

Additionally, in the Comment[43] to the Petition filed before this Court, Demetrio's widow, Julia, averred that the company-designated doctor, Dr. Salvador, failed to explain how or why Demetrio's illness was not work-related; and that the latter's work as chief cook was all about food intake and that this contributed to his becoming afflicted with stomach cancer.

Against this backdrop, the basic issue that clamors for resolution is how Demetrio's work, as chief cook, contributed to or aggravated his illness; and definitely this was an issue that was not addressed or explained by both Demetrio and Julia. All we have on record is the fact that Demetrio died of stomach cancer plus the claim that his work involved food intake which according to him caused or aggravated his stomach cancer.

Demetrio and later, Julia, issued general statements that we deem self-serving because they are unproved or uncorroborated allegations that simply raised the possibility that Demetrio's stomach cancer could have been or might have been work-related. At any rate, even if the seafarer erects his claim on the probability of work-connectedness, such claim would still fail. "Probability of work-connection must at least be anchored on credible information and not on self-serving allegations."[44]

Thus, this Court agrees with the finding of the NLRC that there is no substantial evidence to support the allegation that Demetrio's stomach cancer was caused by work-connected factors.

In addition, Julia cannot point to Demetrio's having successfully passed the PEME as basis for the conclusion that he acquired his illness on board the vessel. This is a non-sequitur. The PEME conducted upon a seafarer would not or could not necessarily reveal or disclose his illness because such examination is not at all fool-proof or thoroughly exploratory.[45]

Here, stock can be taken of the fact that the company-designated doctor treated Demetrio from his repatriation until the time that he was undergoing chemotherapy. Even then, the company-designated physician categorically stated that Demetrio's medical condition was not work-related or work-aggravated.

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43 *Rollo*, pp. 225-238 at 227-230.
44 *Status Maritime Corp. v. Spouses Delalamon*, G.R. No. 198097, July 30, 2014.
45 *Masangcay v. Trans-Global Maritime Agency, Inc.*, 590 Phil. 611, 630 (2008).

Indeed, in her October 9, 2009 Medical Report,[46] Dr. Salvador enumerated the causes of stomach cancer to wit:

1. Diet (nitrates, nitrites, cured or picked foods)
2. Environmental factors (smoke, dust, cigarettes and alcohol)
3. Chronic gastritis (atrophic, hypertrophic gastritis, gastric ulcers, achlorhydia, pernicious anemia, and prior gastric resection)
4. Genetic factors (blood group A)
5. H. pylori infection
6. Previous gastric surgery
7. Obesity
8. Radiation exposure[47]

The company-employed physician opined that stomach cancer "[may be] more often multifactoral in origin involving both inherited predisposition and environmental factors."[48] She concluded that in the case at bench, Demetrio's stomach cancer was not work-related.

In the absence of a second opinion from Demetrio's own physician of choice, this Court may not arbitrarily disregard the finding of the company-designated doctor, Dr. Salvador. If anything, we hew close to the jurisprudential teaching that the seafarer is not entitled to disability benefits if he does not adduce substantial evidence of a medically-established connection between his work and his illness.[49] This is as it should be. For, unopposed and uncontradicted by equally credible and trustworthy countervailing substantial evidence from herein respondents-spouses who, as the original suitors-at-law in this indemnity-recovery suit, had the onus to establish their suit by the presentation of such specie of substantial evidence called for by this case: this Court is not at liberty to reject, with no show of reason, the unopposed and uncontradicted testimony of the company-designated physician.

All told, this Court finds that the CA erred in setting aside the NLRC Decision which affirmed the Decision of the LA dismissing the Complaint for lack of merit.

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46 CA *rollo*, p. 104.
47 Id.
48 Id.
49 *Transocean Ship Management (Phils.), Inc. v. Vedad*, G.R. Nos. 194490-91, 194518 & 194524, March 20, 2013, 694 SCRA 209, 221-222.

**WHEREFORE**, the Petition is **GRANTED**. The Decision dated February 20, 2012 and Resolution dated May 11, 2012 of the Court of Appeals in CA-G.R. SP No. 120589 are **REVERSED and SET ASIDE**. Accordingly, the Complaint in NLRC NCR Case No. OFW(M) 01-01214-10 is **DISMISSED**. Without costs.

**SO ORDERED.**

**MARIANO C. DEL CASTILLO**
*Associate Justice*

WE CONCUR:

**ANTONIO T. CARPIO**
*Associate Justice*
*Chairperson*

**JOSE PORTUGAL PEREZ**
*Associate Justice*

**JOSE CATRAL MENDOZA**
*Associate Justice*

**MARVIC M.V.F. LEONEN**
*Associate Justice*

## ATTESTATION

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

**ANTONIO T. CARPIO**
*Associate Justice*
*Chairperson*

## CERTIFICATION

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

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