



DEL ROSARIO PANDIPHIL Inc.

“Del Rosario & Del Rosario is more or less unrivalled when it comes to maritime work in the Philippines” from Asia-Pacific, The Legal 500, 2014, p. 497

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By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., August 12, 2014 (Issue 2014/12)

Supreme Court compensates seafarer for rheumatoid arthritis as there is proof of causal connection of the illness to seafarer’s work

Seafarer was hired as Chief Cook for a period of eight months. During employment, seafarer complained of swelling in the joints of his two elbows. Seafarer was taken to a shore hospital where he was diagnosed with rheumatoid arthritis. Steroid-based medications were administered to him and they caused him the side effects of puffiness of the face and edema.

Despite of this, seafarer was able to complete his employment contract. He was repatriated and upon arrival in the Philippines, seafarer immediately reported to the company. Seafarer was referred to the company-designated physician, where he was diagnosed with “moon facies and bipedal edema secondary to steroid intake, rheumatoid arthritis, resolving and upper respiratory tract infection.”

Seafarer was referred to another company-designated physician for further assessment and after a series of medical management procedures, the doctor opined seafarer’s rheumatoid arthritis was not work-related because it is “an auto-immune disease in which joints, usually those of hands and feet, are symmetrically affected, resulting in swelling, pain and often eventual destruction of the joints interior.” Seafarer’s cushingnoid features was also declared as not work-related since it is “secondary to prednisone intake as medical management for his rheumatoid arthritis.” In the same report, Dr. Dacanay noted that chronic obstructive pulmonary disease is almost always the result of cigarette smoking to which seafarer admitted to have been engaged in since he was in high school with a daily consumption rate of 10 sticks. Seafarer’s pulmonary status was declared stable and his still persisting joint pains was assessed with interim disability grading of Grade 11 (disturbance of the normal carrying angle or weakness of arm or forearm due to deformity or moderate atrophy of muscles).

Eventually, seafarer was cleared of his pulmonary ailment although he still complained of joint pains. Seafarer was advised to continue his medications and to undergo further treatment.

In the course of the treatment, the company-designated doctor issued an evaluation stating that rheumatoid arthritis is a chronic illness “which can become progressive that has the potential to cause joint destruction and functional disability.” Seafarer was “no longer recommended for further sea duties.”

The company then informed the seafarer that his illness is not work-related and that further expenses for medical treatment shall now be for his own account. Seafarer asked for a medical report supporting such conclusion but allegedly was not furnished any.

Seafarer filed a complaint before the NLRC claiming US\$60,000.00 as permanent total disability benefit, 120 days sickwages.

The Labor Arbiter awarded full disability benefits to the seafarer considering that the illness is disputably presumed to be work-related and the employer’s evidence failed to contradict said presumption. It was likewise established

that the seafarer is already unable to work because of his medical condition.

The NLRC dismissed the claim considering that the presumption of work-relation was disputed by the consistent medical reports issued by the company-designated doctors which showed that the condition is not work-related. The medical opinion of the doctors bears greater evidentiary weight than the internet articles presented by the seafarer (where it showed that the cause of his illness cannot be determined) and it was noted that seafarer did not even present a contrary medical opinion from his own doctor.

With the Court of Appeals, seafarer was awarded full disability benefits as it was shown that the working conditions of the seafarer contributed to his medical condition.

The Supreme Court affirmed the award of disability benefits.

Under the 2000 POEA-SEC, a work-related illness is “any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A with the conditions set therein satisfied.”

The Court has held, however, that the enumeration in Section 32-A does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties.

This is in view of Section 20(B)(4) of the POEA-SEC which states that “those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related.” Concomitant with such presumption is the burden placed upon the claimant to present substantial evidence that his working conditions caused or at least increased the risk of contracting the disease.

“It is not sufficient to establish that the seafarer’s illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer’s illness or injury and the work for which he had been contracted.”

Substantial evidence consists of such relevant evidence which a reasonable mind might accept as adequate to justify a conclusion that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions.

Only a reasonable proof of work-connection, not direct causal relation is required to establish compensability of a non-occupational disease.

In this case, seafarer was able to prove that his rheumatoid arthritis was contracted out of his daily duties as Chief Cook which involved lifting and carrying of heavy provisions as well as exposure to drastic changes in temperature. The narration of facts in his position paper detailed the nature of his work as Chief Cook and the daily working conditions on sea duty.

There was likewise no need for the seafarer to present a medical report from his own doctor considering that the company doctor’s opinion declaring him uncommendable for further sea duties would mean that he is permanently incapacitated to work as a seaman.

Sickwages should likewise be paid and the company cannot escape such liability on the mere fact that seafarer finished his contract and was not medically repatriated. It must be borne in mind that when seafarer arrived in the Philippines, he was still suffering from rheumatoid arthritis, moon facies and bipedal edema and upper respiratory tract infection, as confirmed by the company doctors.

Teekay Shipping Phils., Inc. et.al. vs. Exequiel Jarin; G.R. No. 195598; First Division; June 25, 2014; Supreme Court Associate Justice Bienvenido Reyes, Ponente.

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