Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

VENTIS MARITIME CORPORATION,* K-LINE SHIPMANAGEMENT CO., LTD., JOSE RAMON GARCIA, and CAPT. WILFRED D. GARCIA,
Petitioners,

- versus -

EDGARDO L. SALENGA,
Respondent.

G.R. No. 238578

Present:

PERALTA, *C.J.*, *Chairperson*,
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER, and
LOPEZ, *JJ.*

Promulgated:

JUN 08 2020

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DECISION

CAGUIOA, *J.*:

Before the Court is a Petition for Review on Certiorari[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated October 24, 2017 and Resolution[3] dated March 27, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 150484. The CA affirmed the findings of both the National Labor Relations Commission (NLRC) and the Labor Arbiter (LA) that respondent Edgardo L. Salenga (Salenga) was entitled to permanent and total disability benefits.

Facts

On January 7, 2015, Salenga was engaged by petitioner Ventis Maritime Corporation (Ventis), for its principal K-Line Shipmanagement Co., Ltd., as Chief Cook for nine months on board the vessel MT Viking River

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* Also appears as Ventis Maritime, Inc. in some parts of the *rollo*.

1 *Rollo*, pp. 3-32, excluding the Annexes.

2 Id. at 34-57. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Franchito N. Diamante and Zenaida T. Galapate-Laguilles concurring.

3 Id. at 59-60.

with a basic salary of US$661.00. His employment was covered by a Collective Bargaining Agreement with IBF JSU/AMOSUP IMMAJ.[4]

On October 31, 2015, Salenga's contract expired and he disembarked in South Korea. He arrived in the Philippines on November 1, 2015.[5]

Salenga alleged that on November 3, 2015, he went to Ventis to get his unpaid wages and asked to be referred to a company physician for medical consultation. He was advised to wait for Ventis's call for his medical examination. He, however, executed a Debriefing Sheet stating, among others, that he had no complaints regarding the vessel and offered no suggestions to improve the working conditions therein.[6] Likewise, Salenga executed a Clearance Form, certifying that he had worked inside the ship under normal conditions and that he was declared physically fit thereafter.[7]

On November 22, 2015, Salenga was referred to PMP Diagnostic Center in preparation for his line-up on board his next embarkation[8] and it was there that he was diagnosed by the company physicians with Type II Diabetes Mellitus and Hypertension. As such, his documents for line-up were withdrawn and he executed a Release and Quitclaim on December 9, 2015, releasing petitioners from all claims.[9]

On December 10, 2015, after he suffered from dizziness and chest pains, Salenga consulted a private physician, Dr. Erlinda Bandong-Reyes (Dr. Bandong-Reyes), who eventually issued a certification dated January 11, 2016 that Salenga had cardiovascular disease and Type II Diabetes Mellitus, and that he was permanently unfit for further sea duties and "entitled under POEA Disability Grade 1."[10]

On February 4, 2016, Salenga filed a complaint for disability benefits, moral and exemplary damages, and attorney's fees against petitioners.[11]

On March 14, 2016, another private physician, Dr. Wenceslao Llauderes (Dr. Llauderes), confirmed Dr. Bandong-Reyes's findings.[12]

LA Decision

In his/her Decision dated May 18, 2016, the LA gave due course to the complaint and awarded Salenga with permanent and total disability benefits amounting to US$96,909.00, with sickness allowance, moral and exemplary

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4 Id. at 35.
5 Id. at 37.
6 Id.
7 Id.
8 Id. at 38.
9 Id.
10 Id. at 38-39.
11 Id. at 39 and 92.
12 Id. at 39.

damages, and attorney's fees. The dispositive portion of the LA Decision states:

> "WHEREFORE, premises considered, judgment is hereby rendered awarding Complainant total and permanent disability benefits including sickness allowance in the respective sums of US $96,909 and $2644, plus moral and exemplary damages of P50,000 each and attorney's fees equal to 10% of the total judgment awards.
>
> All other claims are dismissed for lack of merit.
>
> SO ORDERED."[13]

According to the LA, the Clearance Form or the Quitclaim executed by Salenga cannot be used to deprive him of the benefits due him. These were against public policy as they were signed by Salenga who was not a medical practitioner.[14] Moreover, the LA ruled that Salenga was able to prove that he reported to the company within three days from repatriation as this was admitted by petitioners, but that they treated Salenga as a signed-off employee and not one who was medically repatriated.[15] As regards the work-relatedness of Salenga's illnesses, the LA ruled that since the medical reports confirm that Salenga was ill, it is reasonable to conclude that they were acquired or were aggravated on board the vessel as they could not only have been contracted upon his disembarkation.[16] With respect to the award for moral and exemplary damages, the LA opined that petitioners were in bad faith for depriving Salenga of his right to medical evaluation.[17] For having the power to put on hold Salenga's benefits, the individual officers of petitioners were made solidarily liable.[18]

NLRC Decision

On appeal to the NLRC, the NLRC issued a Decision dated December 29, 2016 partially granting the appeal of petitioners, and modifying the LA's Decision by deleting the award for moral and exemplary damages as well as reducing the amount of disability benefits to US$60,000.00. The dispositive portion of the NLRC Decision states:

> "WHEREFORE, premises considered, the Appeal dated 18 May 2016 is PARTIALLY GRANTED. The assailed Decision dated 11 May 2016 is AFFIRMED WITH MODIFICATION.
>
> The award of moral and exemplary damages [is] DELETED.
>
> Respondents-appellants Ventis Maritime Inc., K-Line Shipmanagement Co., Ltd., Jose Ramon Garcia and Capt. Wilfredo A.

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13 Id. at 42.
14 Id. at 39.
15 Id. at 40.
16 Id. at 40-41.
17 Id. at 41.
18 Id. at 42.

> Garcia, are jointly and severally liable to pay complainant-appellee Edgardo L. Salenga, the following:
>
> 1) US$60,000.00 as total and permanent disability benefits;
>
> 2) US$2,644.00 as sickness allowance for 120 days; and
>
> 3) Attorney's fees equivalent to 10% of the total monetary award.
>
> All other claims are dismissed for lack of factual or legal basis.
>
> SO ORDERED."[19]

The NLRC affirmed the factual findings of the LA and also accorded them great weight as they were supported by substantial evidence.[20] The NLRC, however, found that Salenga failed to prove bad faith on the part of petitioners to warrant the award of moral and exemplary damages.[21]

Petitioners moved for reconsideration but this was denied in the NLRC's Resolution dated February 14, 2017, prompting petitioners to file a petition for *certiorari* with the CA.[22]

CA Decision

In the assailed Decision, the CA dismissed the petition and affirmed the rulings of the NLRC. The dispositive portion of the CA Decision states:

> **WHEREFORE**, the instant petition for certiorari is **DISMISSED**. The assailed NLRC *Decision* dated December 29, 2016, and *Resolution* dated February 14, 2017 are hereby **AFFIRMED**.
>
> **SO ORDERED.**[23]

The CA relied on the findings of the labor tribunals that the CA found to be supported by substantial evidence. The CA affirmed that Salenga's illnesses were work-related based on the medical evaluation of the company-designated physicians who found him suffering from Diabetes Mellitus Type II and cardiovascular disease.[24] This was also supported by the medical assessment of Salenga's own doctors.[25] The CA likewise found the award of attorney's fees proper because the withholding of wages need not be attended by bad faith or malice to warrant the grant of attorney's fees.[26]

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19 Id. at 45.
20 Id. at 44.
21 Id.
22 Id. at 45.
23 Id. at 56.
24 Id. at 53-54.
25 Id.
26 Id. at 55-56.

Petitioners moved for reconsideration but this was denied. Hence, this Petition.

Issue

Whether the CA is correct in affirming the NLRC ruling that Salenga is entitled to total and permanent disability benefits.

The Court's Ruling

The Petition is granted.

Although a Rule 45 petition is limited to questions of law, the Court may resolve questions of facts if the appealed decision is based on a misapprehension of facts.[27] Although as a rule, the factual findings of the CA, especially if it affirms the factual findings of the labor tribunals, are binding on this Court, this rule does not find application when these are based on speculations, conjectures and surmises.[28]

Here, the LA, NLRC, and CA erred in finding that Salenga's illnesses were work-related.

Section 20(A) of the 2010 Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) is irrelevant if the seafarer did not suffer from an illness or injury during the term of his contract.

The seafarer's complaints for disability benefits arise from (1) injury or illness that manifests or is discovered **during** the term of the seafarer's contract, which is usually while the seafarer is on board the vessel or (2) illness that manifests or is discovered **after** the contract, which is usually after the seafarer has disembarked from the vessel. As further explained below, it is only in the first scenario that Section 20(A) of the POEA-SEC applies.

In ruling that Salenga is entitled to disability benefits, the CA ruled that he was able to show that his illnesses existed during the term of his contract, as follows:

> The terms and conditions for claiming disability benefits by a seafarer against his employer are contained in the Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board

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27 See *Sarona v. National Labor Relations Commission*, 679 Phil. 394, 414-415 (2012).

28 *Allied Banking Corp. v. Court of Appeals*, 461 Phil. 517, 533 (2003).

> Ocean-Going Vessels (POEA-SEC). Specifically, Section 20[(A)[29]] provides that the employer is liable for disability benefits when the seafarer suffers from a work-related injury or illness during the term of his contract. To be compensable, the injury or illness (1) must be work-related and (2) must have arisen during the term of the employment contract.
>
> x x x x
>
> Furthermore, [Salenga] was also able to show that his illness[es] existed during the term of his employment. There is sufficient basis to conclude that his illness[es] x x x developed while he was onboard, considering the conditions of his workplace and the strain he experienced while attending to his duties on the vessel. The NLRC based its conclusion on the medical findings of Dra. Bandong-Reyes and Dr. L[l]auderes. These findings were contained in physicians' certifications which also state that [Salenga] is permanently unfit for further sea duties in any capacity. Clearly, the labor tribunals' ruling was not capricious or whimsical so as to constitute grave abuse of discretion, the conclusions being based on substantial evidence.
>
> There was also no grave abuse of discretion on the part of the NLRC when it decided to give no evidentiary weight to the clearance and quitclaim that [Salenga] allegedly signed. These forms are pre-drafted and prepared by the company as pro forma waivers. These waivers are generally looked upon with disfavor and are largely ineffective to bar claims based on a worker's legal rights. Unless it can be established that the person executing the waiver voluntarily did so, with full understanding of its contents, and with reasonable and credible consideration, the same is not a valid and binding undertaking. Moreover, the burden to prove that the waiver or quitclaim was voluntarily executed is with the employer.[30]

The CA's ruling is erroneous.

The CA concluded that Salenga's illnesses existed during the term of the contract on the basis of the medical findings of Dr. Bandong-Reyes and Dr. Llauderes. Their medical findings state:

> This is to certify that, Mr. Edgardo Lacson Salenga x x x was seen and examined in this clinic from December 10, 2015 up to present, with the following findings and/or diagnosis:
>
> Cardiovascular Disease
> Type II Diabetes Mellitus
>
> Patient is permanently unfit for further sea duties in any capacity and entitled under POEA Disability Grade 1 for severe residuals of impairment of intra-abdominal organs which requires regular aid and attendance that will [en]able worker to seek any gainful employment.
>
> Such injury/illness[es] are work related since exposed to toxic and hazardous materials.[31]

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29 Appears as Section 20(B) in the CA Decision but is actually referring to Section 20(A) of the POEA-SEC.

30 *Rollo*, pp. 52-54.

31 Id. at 38-39.

There is absolutely nothing in the foregoing that indicates, or even implies, that Salenga suffered from the illnesses during the term of his contract.

To the contrary, the evidence supports the conclusion that Salenga suffered from his illnesses **after the term of his contract**. After his arrival in the Philippines on November 1, 2015, Salenga executed a Debriefing Sheet stating, among others, that he had no complaints regarding the vessel and offered no suggestions to improve the working conditions therein,[32] and a Clearance Form certifying that he had worked inside the ship under normal conditions and that he was declared physically fit thereafter.[33] Given these admissions by Salenga that he had no complaints while he was on board the vessel and even declared that he was working under normal conditions, his illnesses cannot therefore be considered as illnesses that arose during the term of his contract.

Accordingly, it was an error for the CA to rely on Section 20(A) of the POEA-SEC. Section 20(A) applies only if the seafarer suffers from an illness or injury **during the term of his contract**, *i.e.*, while he is employed. Section 20(A) of the POEA-SEC clearly states the parameters of its applicability:

> **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

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32 See id. at 4, 37.

33 Id. at 37.

120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.

The seafarer shall be entitled to reimbursement of the cost of medicines prescribed by the company-designated physician. In case treatment of the seafarer is on an out-patient basis as determined by the company-designated physician, the company shall approve the appropriate mode of transportation and accommodation. The reasonable cost of actual traveling expenses and/or accommodation shall be paid subject to liquidation and submission of official receipts and/or proof of expenses.

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, 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.

4. Those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related.

5. In case a seafarer is disembarked from the ship for medical reasons, the employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former ship or another ship of the employer.

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of his Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted.

   The disability shall be based solely on the disability gradings provided under Section 32 of this Contract, and shall not be measured or determined by the number of days a seafarer is under treatment or the number of days in which sickness allowance is paid.

7. It is understood and agreed that the benefits mentioned above shall be separate and distinct from, and will be in addition to whatever benefits which the seafarer is entitled to under Philippine laws such as from the Social Security System, Overseas Workers Welfare Administration, Employees' Compensation Commission,

> Philippine Health Insurance Corporation and Home Development Mutual Fund (Pag-IBIG Fund). (Emphasis and underscoring supplied)

Based on the foregoing, **if the seafarer suffers from an illness or injury during the term of the contract,** the process in Section 20(A) applies. The employer is obliged to continue to pay the seafarer's wages, and to cover the cost of treatment and medical repatriation, if needed. After medical repatriation, the seafarer has the duty to report to the company-designated physician within three days upon his return. The employer shall then pay sickness allowance while the seafarer is being treated. And thereafter, the dispute resolution mechanism with regard to the medical assessments of the company-designated, seafarer-appointed, and independent and third doctor, shall apply.

The disputable presumption of work-relatedness provided in paragraph 4 above arises only if or when the seafarer suffers from an illness or injury **during the term of the contract** and the resulting disability is not listed in Section 32 of the POEA-SEC. That paragraph 4 above provides for a disputable presumption is because the injury or illness is suffered while working at the vessel. Thus, or stated differently, it is only when the illness or injury manifests itself during the voyage and the resulting disability is not listed in Section 32 of the POEA-SEC will the disputable presumption kick in. This is a reasonable reading inasmuch as, at the time the illness or injury manifests itself, the seafarer is in the vessel, that is, under the direct supervision and control of the employer, through the ship captain.

Another way of stating this is that it is only during the term of the voyage that the principal/employer/master/company has the duty to take all necessary precautions to prevent or avoid accident, injury, or illness to the crew and to observe the Code of Ethics for Seafarers, and to provide a workplace conducive for the promotion and protection of the health of the seafarers. Section 1(A) of the POEA-SEC states:

> **SECTION 1. DUTIES**
>
> **A. Duties of the Principal/Employer/Master/Company:**
>
> 1. To faithfully comply with the stipulated terms and conditions of this contract, particularly the prompt payment of wages, remittance of allotment and the expeditious settlement of valid claims of the seafarer.
>
> 2. To extend coverage to the seafarers under the Philippine Social Security System (SSS), Philippine Health Insurance Corporation (PhilHealth), Employees' Compensation Commission (ECC) and Home Development Mutual Fund (Pag-IBIG Fund), unless otherwise provided in multilateral or bilateral agreements entered into by the Philippine government with other countries.

3. To make operational on board the ship the grievance machinery provided in this contract and ensure its free access at all times by the seafarer.

4. **To provide a seaworthy ship for the seafarer and take all reasonable precautions to prevent accident and injury to the crew including provision of safety equipment, fire prevention, safe and proper navigation of the ship and such other precautions necessary to avoid accident, injury or sickness to the seafarer.**

5. **To observe the Code of Ethics for Seafarers and conduct himself in the traditional decorum of a master.**

6. **To provide a workplace conducive for the promotion and protection of the health of the seafarers in accordance with the standards and guidelines in Title 4 of the ILO Maritime Labor Convention, 2006.** (Emphasis and underscoring supplied)

At the same time, the seafarer has the duty to act in an orderly and respectful manner, to abide by the Code of Discipline and Code of Ethics for Seafarers, and to take personal responsibility for his health while on board by practicing a healthy lifestyle which includes taking medications and lifestyle changes as prescribed by the company-designated doctor. Section 1(B) of the POEA-SEC states:

SECTION 1. DUTIES

x x x x

B. Duties of the Seafarer:

1. To faithfully comply with and observe the terms and conditions of this contract, violation of which shall be subject to disciplinary action pursuant to Section 33 of this contract.

2. To abide by the Code of Discipline as provided in the POEA rules and regulations governing overseas contract workers and the Code of Ethics for Seafarers.

3. To be obedient to the lawful commands of the Master or any person who shall lawfully succeed him and to comply with the company policy including safety policy and procedures and any instructions given in connection therewith.

4. To be diligent in his duties relating to the ship, its stores and cargo, whether on board, in boats or ashore.

5. To conduct himself at all times in an orderly and respectful manner towards shipmates, passengers, shippers, stevedores, port authorities and other persons on official business with the ship.

6. To take personal responsibility for his health while onboard by practicing a healthy lifestyle which includes taking medications and lifestyle changes as prescribed by the company-designated doctor.

Here, Salenga was repatriated because his contract had already ended. Further, based on his own admissions, he did not suffer any illness while he was on board the ship, and in fact, he failed to present any proof that his illnesses manifested while he was on board the vessel. Hence, Section 20(A) of the POEA-SEC does not apply to him. Indeed, because he disembarked at the end of his contract, he was not required to submit to the company-designated physician within three days from repatriation. Petitioners also had no obligation to pay him sickness allowance.

An illness suffered after the term of the contract may still be considered work-related.

Nonetheless, even if Salenga's illnesses manifested or were discovered after the term of the contract, and even if Section 20(A) finds no application to him, he may still claim disability benefits.

In instances where the illness manifests itself or is discovered after the term of the seafarer's contract, the illness may either be (1) an occupational illness listed under Section 32-A of the POEA-SEC, in which case, it is categorized as a work-related illness if it complies with the conditions stated in Section 32-A, or (2) an illness not listed as an occupational illness under Section 32-A but is reasonably linked to the work of the seafarer.

For the first type, the POEA-SEC has clearly defined a work-related illness as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied."[34] What this means is that to be entitled to disability benefits, a seafarer must show compliance with the conditions under Section 32-A, as follows:

1. The seafarer's work must involve the risks described therein;

2. The disease was contracted as a result of the seafarer's exposure to the described risks;

3. The disease was contracted within a period of exposure and under such other factors necessary to contract it; and

4. There was no notorious negligence on the part of the seafarer.

As to the second type of illness — one that is **not listed as an occupational disease in Section 32-A** — *Magsaysay Maritime Services v. Laurel*,[35] instructs that the seafarer may still claim provided that he suffered a disability occasioned by a disease contracted on account of or aggravated by

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34 POEA-SEC, Definition of Terms, No. 16.

35 707 Phil. 210 (2013).

working conditions. For this illness, "[i]t is sufficient that there is a reasonable linkage between the disease suffered by the employee and his work to lead a rational mind to conclude that his work may have contributed to the establishment or, *at the very least, aggravation of any pre-existing condition he might have had.*"[36] Operationalizing this, to prove this reasonable linkage, it is imperative that the seafarer must prove the requirements under Section 32-A: the risks involved in his work; his illness was contracted as a result of his exposure to the risks; the disease was contracted within a period of exposure and under such other factors necessary to contract it; and he was not notoriously negligent.

In effect, the table of illnesses and the corresponding nature of employment in Section 32-A only provide the list of occupational illnesses. It does not exempt a seafarer from providing proof of the conditions under the first paragraph of Section 32-A in order for the occupational illness/es complained of to be considered as work-related and, therefore, compensable.

Further, in both types, to determine the amount of compensation, the seafarer must show the resulting disability following as guide the schedule listed in Section 32.

To illustrate the first type: Assuming that the seafarer seeks disability benefits for cancer of the epithelial of the bladder that manifests itself after the term of the contract, which is listed in Section 32-A as follows:

OCCUPATIONAL DISEASE	NATURE OF EMPLOYMENT
1. Cancer of the epithelial of the bladder (Papilloma of the bladder)	Work involving exposure to alphanapthylamine, betanaphathylamin, or benzidine of any part of the salts; and auramine or magenta

this alone does not mean that the seafarer is automatically entitled to disability benefits. He must still show compliance with the conditions — that is, he must still prove that the nature of his work involved exposure to alphanapthylamine, betanaphathylamin, or benzidine of any part of the salts, and auramine or magenta, that the disease was contracted within a period of exposure and under such other factors necessary to contract it, and that he was not notoriously negligent. Once such proof is adduced, then the illness is considered work-related and compensable.

As to the disability benefit he is entitled to, the seafarer (through his physician) must then provide a disability grade following Section 32, which provides for a specific disability grade for a specific type of disability or

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[36] Id. at 225, citing *David v. OSG Shipmanagement Manila, Inc.*, 695 Phil. 906, 919 (2012), further citing *Nisda v. Sea Serve Maritime Agency*, 611 Phil. 291, 320 (2009); and *NYK-Fil Ship Management v. Talavera*, 591 Phil. 786, 801 (2008). Italics supplied.

impediment. Thus, the seafarer who suffers from cancer of the epithelial of the bladder may have a disability grade of 1, 7 or 12, depending on which of the following applies to him:

> **SECTION 32. SCHEDULE OF DISABILITY OR IMPEDIMENT FOR INJURIES SUFFERED AND DISEASES INCLUDING OCCUPATIONAL DISEASES OR ILLNESS CONTRACTED.**
>
> x x x x
>
> **ABDOMEN**
>
> x x x x
>
> 3. Severe residuals of impairment of intra-abdominal organs which requires regular aid and attendance that will unable worker to seek any gainful employment — Gr. 1
>
> 4. Moderate residuals of disorder of the intra-abdominal organs secondary to trauma resulting to impairment of nutrition, moderate tenderness, nausea, vomiting, constipation or diarrhea — Gr. 7
>
> 5. Slight residuals or disorder of the intra-abdominal organs resulting in impairment of nutrition, slight tenderness and/or constipation or diarrhea — Gr. 12

The amount of disability benefit is computed following the schedule in Section 32, as follows:

SCHEDULE OF DISABILITY ALLOWANCES

IMPEDIMENT GRADE		IMPEDIMENT	
1	US$50,000	x	120.00%
2	"	x	88.81%
3	"	x	78.36%
4	"	x	68.66%
5	"	x	58.96%
6	"	x	50.00%
7	"	x	41.80%
8	"	x	33.59%
9	"	x	26.12%
10	"	x	20.15%
11	"	x	14.93%
12	"	x	10.45%
13	"	x	6.72%
14	"	x	3.74%

Thus, the seafarer may receive US$60,000.00 if he has a Grade 1 Disability Grade, US$20,900.00 if Grade 7, or US$5,225.00 if Grade 12.

On the other hand, if a seafarer seeks disability benefits under the second type (not listed as an occupational disease under Section 32-A), the seafarer must prove the reasonable linkage between his disease and his work. The seafarer must prove that his work may have contributed to the establishment or, at the very least, aggravation of any pre-existing condition he might have had. This means that the seafarer must prove: the risks involved in his work; his illness was contracted as a result of his exposure to the risks; the disease was contracted within a period of exposure and under such other factors necessary to contract it; and he was not notoriously negligent. Assuming these are proven, the seafarer must also provide a disability grade following Section 32 as shown above.

More importantly, the rule applies that whoever claims entitlement to benefits provided by law should establish his right thereto by substantial evidence[37] which is more than a mere scintilla; it is real and substantial, and not merely apparent.[38] Further, while in compensation proceedings in particular, the test of proof is merely probability and not ultimate degree of certainty,[39] the conclusions of the courts must still be based on real evidence and not just inferences and speculations.[40]

Here, it is not disputed that Salenga was lined-up for re-deployment and during his pre-employment medical examination for such re-deployment, he was found to have been suffering from cardiovascular disease and Type II Diabetes Mellitus. In order to be considered as work-related illnesses, Salenga was required to present substantial evidence of how his illnesses are work-related.

For his cardiovascular disease, Section 32-A, on the list of occupational illnesses, finds no application. Although cardiovascular and cerebro-vascular events are listed as occupational illnesses in paragraphs 11 and 12 of Section 32-A, the conditions stated therein show that such events, in order to be considered as work-related, should manifest themselves while the seafarer was at work. Thus:

> 11. Cardio-vascular events — to include heart attack, chest pain (angina), heart failure or sudden death. Any of the following conditions must be met:
>
> a. If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by an unusual strain by reasons of the nature of his work
>
> **b. <u>the strain of work that brings about an acute attack must be sufficient severity and must be followed within 24 hours by the</u>**

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37 *Jebsens Maritime, Inc. v. Undag*, 678 Phil. 938, 946-947 (2011).
38 *Panganiban v. Tara Trading Shipmanagement Inc.*, 647 Phil. 675, 688 (2010).
39 *Villamor v. Employees' Compensation Commission*, 800 Phil. 269, 270 & 282 (2016).
40 See *Scanmar Maritime Services, Inc. v. De Leon*, 804 Phil. 279, 291-292 (2017).

clinical signs of a cardiac insult to constitute a causal relationship

c. If a person who was apparently asymptomatic before being subjected to strain at work **showed signs and symptoms of cardiac injury during the performance of his work** and such symptoms and signs persisted, it is reasonable to claim a causal relationship

d. if a person is a known hypertensive or diabetic, he should show compliance with prescribed maintenance medications and doctor-recommended lifestyle changes. The employer shall provide a workplace conducive for such compliance in accordance with Section 1(A) paragraph 5

e. in a patient not known to have hypertension or diabetes, as indicated on his last PEME

12. Cerebro-vascular events

All of the following conditions must be met:

a. If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by an unusual strain by reasons of the nature of his work

b. the strain of work that brings about an acute attack must be sufficient severity and must be followed within 24 hours by the clinical signs of a cardiac insult to constitute a causal relationship

c. If a person who was apparently asymptomatic before being subjected to strain at work **showed signs and symptoms of cardiac injury during the performance of his work** and such symptoms and signs persisted, it is reasonable to claim a causal relationship

d. if a person is a known hypertensive or diabetic, he should show compliance with prescribed maintenance medications and doctor-recommended lifestyle changes. The employer shall provide a workplace conducive for such compliance in accordance with Section 1(A) paragraph 5

e. in a patient not known to have hypertension or diabetes, as indicated on his last PEME (Emphasis and underscoring supplied)

Salenga's cardiovascular disease cannot be considered as a cardiovascular or cerebro-vascular event under Section 32-A because his cardiovascular disease did not manifest itself while he was performing his work. There was no proof that Salenga was suffering from heart disease during his employment and that a cardiovascular or cerebro-vascular event had occurred that was precipitated by reasons of the nature of his work. As to Salenga's diabetes, it is not listed in Section 32-A.

Since his cardiovascular disease and his Type II Diabetes Mellitus both manifested themselves after he had already disembarked from the

vessel, Section 32-A on the list of occupational illnesses does not apply. Hence, Salenga was required to prove that there was a reasonable linkage between his cardiovascular disease and diabetes, and his work as Chief Cook to lead a rational mind to conclude that his work might have contributed to the establishment of his illnesses. He had the burden to prove the risks involved in his work, his illnesses were contracted as a result of his exposure to the risks, the diseases were contracted within a period of exposure and under such other factors necessary to contract it, and he was not notoriously negligent.

He failed to do this.

There was no proof or explanation in the findings of his doctors as to how he acquired his illnesses as a result of his work as a Chief Cook. There was no proof that as Chief Cook, he was exposed to toxic and hazardous materials. These materials were not even specified. It was also not explained how these materials caused Salenga's cardiovascular disease and diabetes. There was no proof that he contracted his illnesses as a result of his exposure to risks involved in his work, and that he was not notoriously negligent.

It was incumbent upon Salenga to prove the requirements above because it is only upon presentation of substantial evidence of the reasonable linkage between his work and his illnesses will his illnesses be considered as work-related illnesses and therefore compensable. Given this, the LA, NLRC, and CA all erred in awarding total and permanent disability benefits to Salenga when he failed to present substantial evidence to prove that his illnesses were work-related.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated October 24, 2017 and Resolution dated March 27, 2018 of the Court of Appeals in CA-G.R. SP No. 150484 are **REVERSED** and **SET ASIDE**. The complaint of respondent Edgardo L. Salenga is **DISMISSED** for lack of merit.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson

JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
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.

DIOSDADO M. PERALTA
Chief Justice