



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

**MAGSAYSAY MITSUI OSK
 MARINE, INC. and/or MOL
 TANKSHIP MANAGEMENT
 (ASIA) PTE LTD.,**

Petitioners,

- versus -

JUANITO G. BENGSON,*
Respondent.

G.R. No. 198528

Present:

CARPIO, *Chairperson,*
 BRION,
 DEL CASTILLO,
 MENDOZA, *and*
 LEONEN, *JJ.*

Promulgated:

OCT 13 2014

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DECISION

DEL CASTILLO, J.:

Time and again, this Court has held that cardiovascular disease, coronary artery disease, and other heart ailments are work-related and, thus, compensable.

Assailed in this Petition for Review on *Certiorari*¹ is the July 15, 2011 Decision² of the Court of Appeals (CA) in CA-G.R. SP No. 118501 which set aside the August 31, 2010 Decision of the National Labor Relations Commission (NLRC) in NLRC LAC No. (OFW-M) 10-000643-09 and reinstated with modification the June 18, 2009 Decision of the Labor Arbiter in NLRC OFW Case No. (M) 07-10402-08. Also assailed herein is the CA's September 9, 2011 Resolution³ denying reconsideration of its assailed Decision.

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* On August 21, 2014, respondent Juanito G. Bengson died. A Motion for Substitution was filed on September 10, 2014 by his counsel requesting the substitution of Juanito G. Bengson to Anita Bengson for and in behalf of her three children namely Janette Bengson, John Clyde Bengson and Jaimerose Bengson.

¹ *Rollo*, pp. 37-59.

² *Id.* at 61-78; penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Rosmari D. Carandang and Samuel H. Gaerlan.

³ *Id.* at 80-81.

Factual Antecedents

The facts are succinctly summarized by the appellate court, thus:

Since the year 1986, x x x Juanito G. Bengson⁴ has been working as a seafarer for x x x Magsaysay Mitsui OSK Marine, Inc.⁵ (Magsaysay, Inc.), from his first position as Deck Cadet until his present position as Third Mate Officer. On August 7, 2007, at the age of 45, [Bengson] entered into his 22nd contract of employment with Magsaysay, Inc. for and in behalf of its foreign principal MOL Tankship Management (Asia) Pte., Ltd.,⁶ as a Third Mate Officer on board the vessel “*KN TRADER*”. The contract was for a duration of nine (9) months with a basic monthly salary of US\$814.00 for a minimum of 40 hours of work in a week. Prior to his deployment, [Bengson] underwent and passed the Pre-Employment Medical Examination (PEME) and was found to be “*fit for sea duty*” on August 11, 2007. Thereafter, [Bengson] boarded the ship and performed his assigned tasks.

On October 5, 2007, after doing his usual duties on board the vessel, [Bengson] suddenly experienced difficulty in breathing and numbness on half of his body. Thinking that it was caused by fatigue, he rested for a while. After two hours, he still felt numbness over his half body prompting him to ask for assistance. On October 7, 2007, [Bengson] was brought to the Neurological Department of the Izola General Hospital in Slovenia where he was confined for three days. While in the hospital, [Bengson] had partial paralysis of the right hand and a minor partial paralysis of the right leg. His Computed Tomography (CT) Scan of the head showed a “*small hematoma in the left part of the crane*”. At that time, [Bengson] could only walk with the help of a physiotherapist and was prohibited from lifting heavy things. Due to his incapacity to work, his immediate repatriation was arranged.

Upon [Bengson’s] arrival in the Philippines on October 21, 2007, he was immediately brought to the Manila Doctors Hospital for confinement under the supervision of company-designated-physician Dr. Benigno F. Agbayani, Jr. [Bengson’s] Cerebrovascular Investigation Form reveals that he had, among other things, stroke, hypertension, carotid bruit, Transient Ischemic Attack (T.I.A.), Hemiplegia, and Amaurosis Fugax. His Plaque Morphology Type I reveals a “*uniformly echolucent with thin echogenic cap (homogenous hypoechoic) or a high risk for plaque rupture and embolism regardless of % of stenosis*”. Upon [Bengson’s] discharge on November 1, 2007, his Medical Abstract/Discharge Summary showed that he had a stroke.

On November 4, 2007, Dr. Agbayani issued an Initial Out-Patient Consult Report which stated that [Bengson’s] illness of “*hematoma in the cranium*” was not work-related. Thus, [Magsaysay, Inc. and MOL Tankship] did not anymore issue any assessment on [Bengson’s] disability grade. [Bengson], on the other hand, continuously took medications and was unable to return to his work as a seaman due to the severity of his disability. [Bengson] thus filed his disability compensation claim against x x x Magsaysay, Inc. However, during the grievance proceedings before the Associated Marine

⁴ Herein respondent.

⁵ Herein petitioner.

⁶ Or MOL Tankship, herein co-petitioner of Magsaysay, Inc.

Officers and Seamen's Union of the Philippines (AMOSUP), his claim was outrightly denied by x x x Magsaysay, Inc.⁷

Ruling of the Labor Arbiter

Bengson filed against the petitioners, Magsaysay Mitsui Osk Marine, Inc. (Magsaysay, Inc.) and MOL Tankship Management (Asia) Pte Ltd. (MOL Tankship), a complaint for the recovery of total permanent disability benefits, reimbursement of medical and transportation expenses, damages, and attorney's fees, with interest. The labor case was docketed as NLRC OFW Case No. (M) 07-10402-08.

In his Position Paper and related pleadings,⁸ Bengson argued that under his Collective Bargaining Agreement (CBA) with the petitioners (IBF JSU/ AMOSUP-IMMA CBA), he is entitled to US\$137,500.00 work-related compensation as Third Mate; that his illness is work-related and was contracted as a result of the pressure, stress, and demands of his work as well as the long period of service with petitioners; that his illness is continuing, and has resulted in total and permanent disability, complete inability to perform his work, and loss of qualifications and aptitude required for employment as seaman in any capacity; that petitioners unjustifiably refused to compensate him, thus causing upon him further anxiety, sleepless nights, and mental anguish and forcing him to litigate. Thus, he prayed that judgment be rendered in his favor for the payment of permanent and total disability compensation in the amount of US\$137,500.00; moral and exemplary damages in the amount of ₱150,000.00; attorney's fees equivalent to 10% of his claims; reimbursement of his medical and transportation expenses; and legal interest.

On the other hand, petitioners' main defense in their Position Paper and other written submissions⁹ is that Bengson's illness is not an occupational disease; that it is not work-related and therefore not compensable; that there is no medical evidence to support his claims; that his "small hematoma on the left cranium" has already been declared by the company-designated physician to be not work-related, and is not included in the Philippine Overseas and Employment Authority Standard Employment Contract (POEA-SEC) list of occupational diseases; that they have shouldered Bengson's medical expenses and paid him his sickness and transportation allowances; that the standard in measuring the degree of disability of a seafarer is not the 120-day period provided under Article 192(c) (1) of the Labor Code¹⁰ and Rule X, Section 2 of the Amended Rules on Employees'

⁷ *Rollo*, pp. 62-64.

⁸ *Id.* at 136-155, 168-172, 173-177.

⁹ *Id.* at 178-199, 205-214.

¹⁰ Art. 192. Permanent total disability. – x x x

(c) The following disabilities shall be deemed total and permanent:

(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;

Compensation Commission,¹¹ but the disability grading issued by the company-designated physician – that is, a seafarer may be entitled to total and permanent disability benefits if he has been issued a Grade 1 disability; that consequently, Bengson is not entitled to damages, attorney’s fees and other claims. Petitioners thus prayed for the dismissal of the labor complaint.

On June 18, 2009, the Labor Arbiter issued his Decision¹² in NLRC OFW Case No. (M) 07-10402-08, which decreed as follows:

WHEREFORE, judgment is hereby rendered ordering respondents jointly and severally liable to pay complainant JUANITO BENGZON [sic] the Philippine peso equivalent at the actual payment of One Hundred Thirty Seven Thousand Five Hundred U.S. Dollars (US\$137,500.00) representing 100% of the compensation benefit under the CBA and ten (10%) percent of the total money claims as attorney’s fees.

Other monetary claims are dismissed for lack of merit.

SO [ORDERED].¹³

The Labor Arbiter declared that Bengson’s hematoma in the left part of his cranium is related to his work as Third Mate, and the strenuous nature of his work and the conditions he was subjected to while working on board petitioners’ vessel caused his illness; that respondent suffered from heart disease and/or cerebral infarction which required medication and regular medical check-up up to the present; that despite his condition, the company-designated physician (Agbayani) has to date failed to issue a disability assessment; that consequently, Bengson suffered from permanent and total disability.

The Labor Arbiter added that Agbayani’s November 4, 2007 Initial Out-Patient Consult Report declaring that Bengson’s illness is not work-related cannot be given credence, as it has been shown that prior to boarding MOL Tankship’s vessel, respondent was declared “fit to work” by petitioners’ own physicians, and if he contracted heart disease while on board the ship, it can only be caused by his work and the conditions he was subjected to during his employment. Finally, the Labor Arbiter held that pursuant to the IBF JSU/AMOSUP-IMMA CBA under which Bengson is covered, disability compensation should be awarded to him in the amount of US\$137,500.00, which is equivalent to 100% degree of disability under said CBA.

¹¹ Sec. 2. Period of entitlement. – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at anytime after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

¹² *Rollo*, pp. 115-125; penned by Labor Arbiter Ramon Valentin C. Reyes.

¹³ *Id.* at 125.

Ruling of the National Labor Relations Commission

Petitioners appealed to the NLRC, where the case was docketed as NLRC LAC No. (OFW-M) 10-000643-09.

On August 31, 2010, the NLRC rendered its Decision¹⁴ granting the appeal, setting aside the Labor Arbiter's June 18, 2009 Decision, and thus dismissing the complaint in NLRC OFW Case No. (M) 07-10402-08. Respondent moved to reconsider, but the NLRC stood its ground.¹⁵

Essentially, the NLRC held that the IBF JSU/AMOSUP-IMMA CBA is relevant only in cases of permanent disability arising from accident – which is not the case for Bengson, who contracted illness; thus, the provisions of the POEA-SEC apply instead. It added that under the POEA-SEC, hematoma is not included in the list of compensable illnesses; this being the case, Bengson should have proved that such illness was work-related and compensable, and it is not enough for him to claim or show that it was contracted during his employment with petitioners. Having failed to do so, Agbayani's findings that his illness is not work-related should prevail. It held further that since respondent's illness is not work-related, his inability to work for more than 120 days is therefore irrelevant and does not entitle him to permanent total disability benefits.

Ruling of the Court of Appeals

In a Petition for *Certiorari*¹⁶ filed with the CA and docketed therein as CA-G.R. SP No. 118501, Bengson sought to set aside the above NLRC Decision and reinstate that of the Labor Arbiter's, arguing mainly that his illness is work-connected which therefore entitles him to disability compensation under the IBF JSU/AMOSUP-IMMA CBA.

On July 15, 2011, the CA issued the herein assailed Decision containing the following decretal portion:

WHEREFORE, premises considered, the instant petition for certiorari is hereby GRANTED. The Decision dated August 31, 2010 of public respondent National Labor Relations Commission (NLRC), First Division, is ANNULLED and SET ASIDE. Accordingly, the Decision dated June 18, 2009 of the Labor Arbiter is REINSTATED with the modification in that private respondents Magsaysay Mitsui OSK Marine, Inc. and/or MOL Tankship Management (ASIA) PTE, Ltd. are jointly and severally liable to pay petitioner Juanito G. Bengson the amount of Sixty Thousand U.S. Dollars (US\$60,000.00)

¹⁴ Id. at 105-114; penned by Commissioner Romeo L. Go.

¹⁵ Id. at 134-135; Resolution of December 30, 2010 penned by Commissioner Romeo L. Go and concurred in by Commissioner Perlita B. Velasco.

¹⁶ Id. at 82-103.

representing 120% of the compensation benefit under the 2000 POEA Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels.

SO ORDERED.¹⁷

The CA held that Bengson's exposure to different hazards on board petitioners' vessel, the performance of his functions as Third Mate, and the extraordinary physical and mental strain required by his position caused him to suffer his present illness, which requires continuous medication to date. It held that as Third Mate, Bengson

is a licensed member of the deck department of his ship and is under the supervision of the Chief Mate. He traditionally stands [an] "8-12" watch: from 8am until 12 noon and 8pm until midnight. At sea, the mate on watch has three fundamental duties: to navigate the ship, to safely avoid traffic, and to respond to any emergencies that may arise. He also has special responsibilities to keep the ship seaworthy during fire and loss of stability, and providing aid and maintaining safety during man overboard, abandoning ship, and medical emergencies. Indeed, in performing his functions as a Third Mate, [Bengson's] position requires a thorough knowledge of the environment in which he is operating, otherwise, the safety of the ship would be endangered.

In addition, [Bengson] was performing a minimum of 40 hours a week and was made to work under the heat of the sun. [Bengson] has also been subjected to this same kind of work as a Third Mate for twelve (12) years since he was continuously rehired and deployed after the expiration of his employment contract. He has no known disease or illness based on his Pre-Employment Medical Examination, thus, bolstering petitioner's claim that his illness was caused by his strenuous activities on board the vessel.¹⁸

The CA added that in the course of performing his duties, Bengson suffered a stroke or cerebro-vascular accident (CVA), which means that a blood vessel within or about his brain burst which caused cerebral or intracranial hemorrhage; that such illness is an occupational disease under Section 32-A (12) of the POEA-SEC; that according to Agbayani's Cerebrovascular Investigation Form, Bengson suffered from stroke, hypertension, carotid bruit, Transient Ischemic Attack (T.I.A.), Hemiplegia, and Amaurosis Fugax; that the disease being work-related, Agbayani should have made a declaration either of fitness or disability, which he failed to do up to this day; that the failure to make a declaration entitles Bengson to permanent total disability benefits in the amount of US\$60,000.00 in accordance with Sections 20¹⁹ and 32²⁰ of the POEA-SEC, and not US\$137,500.00 under the IBF JSU/AMOSUP-IMMA CBA which applies only in case of accident; and finally, that an award of attorney's fees is proper as the case is one for recovery of

¹⁷ Id. at 77-78.

¹⁸ Id. at 73-74.

¹⁹ On COMPENSATION AND BENEFITS.

²⁰ On SCHEDULE OF DISABILITY OR IMPEDIMENT FOR INJURIES SUFFERED AND DISEASES INCLUDING OCCUPATIONAL DISEASES OR ILLNESS CONTRACTED.

wages and indemnity under employer's liability laws.

Petitioners filed a Motion for Reconsideration, but the CA denied the same in its September 9, 2011 Resolution. Hence, the present Petition.

Issues

Petitioners submit the following issues for resolution:

1. Whether the Court of Appeals committed serious error in law when it disregarded the expert opinion of the company-designated physician that Respondent's illness is not work-related.
2. Whether the Court of Appeals committed serious error in law when it ruled that Respondent is considered as Cerebro-Vascular accident, and thus compensable, when not all the requisites for the same have been complied with.²¹

Petitioners' Arguments

Praying that the assailed CA pronouncements be set aside and that a new judgment be rendered absolving them from the payment of disability benefits and attorney's fees, petitioners essentially maintain in their Petition and Reply²² that Bengson's illness – hypertensive cardio-vascular disease (HCVD) not in failure, CVD infarct left thalamocapsular²³ – is not work-related; that between Bengson's bare allegations that his exposure to different hazards and the stressful nature of his work were the causes of his illness and Agbayani's categorical declaration that Bengson's illness is not work-related, the latter should prevail; that the CA failed to specifically point out the exact unusual and extraordinary physical or mental strain or event which caused respondent's alleged CVA; and that with Agbayani's expertise and experience as petitioners' company-designated physician, his declaration and diagnosis should be given more weight.²⁴

Respondent's Arguments

In his Comment,²⁵ respondent counters that the CA finding that his illness is work-related prevails over Agbayani's declaration; that it is not required that in

²¹ *Rollo*, p. 45.

²² *Id.* at 299-308.

²³ *Id.* at 301.

²⁴ Citing *Magsaysay Maritime Corporation v. National Labor Relations Commission*, G.R. No. 186180, March 22, 2010, 616 SCRA 362; *Vergara v. Hammonia Maritime Services, Inc.*, 588 Phil. 895 (2008); *Magsaysay Maritime Corporation v. Velasquez*, 591 Phil. 839 (2008); and one unverifiable case supposedly entitled *Cailles v. National Labor Relations Commission*, G.R. No. 167950, October 12, 2005.

²⁵ *Rollo*, pp. 286-297.

order to be entitled to disability benefits, his work should be the sole cause of the growth, development or acceleration of his illness;²⁶ that Agbayani's declaration should not be given credence because it is self-serving and biased, favoring petitioners and protecting the latter's interests; that the opinions of company-designated physicians should not at all times be believed;²⁷ that he could not have contracted his illness except while working for petitioners on board their vessel; and that since he could no longer return to work, he should thus be paid permanent disability benefits.

Our Ruling

The Court denies the Petition.

The only issue in this case is whether Bengson's illness – which petitioners claim and admit to be hypertensive cardio-vascular disease (HCVD) not in failure, CVD infarct left thalamocapsular – is an occupational disease.

In many cases decided in the past, this Court has held that cardiovascular disease, coronary artery disease, and other heart ailments are compensable. Thus, in *Fil-Pride Shipping Company, Inc. v. Balasta*,²⁸ severe 3-vessel coronary artery disease which the seaman contracted while serving as Able Seaman was considered an occupational disease. In *Villanueva, Sr. v. Baliwag Navigation, Inc.*,²⁹ it was held that the 2000 POEA-SEC considers heart disease as an occupational disease. In *Jebsons Maritime, Inc. v. Undag*,³⁰ the Court held that hypertensive cardiovascular disease may be a compensable illness, upon proof. In *Oriental Shipmanagement Co., Inc. v. Bastol*³¹ and *Heirs of the late Aniban v. National Labor Relations Commission*,³² it was held that myocardial infarction as a disease or cause of death is compensable, such being occupational. *Iloreta v. Philippine Transmarine Carriers, Inc.*³³ held that hypertensive cardiovascular disease/coronary artery disease and chronic stable angina are compensable. *Micronesia Resources v. Cantomayor*³⁴ stated that a finding of coronary artery disease entitles the claimant – a seaman Third Officer – to disability compensation. In *Remigio v. National Labor Relations Commission*,³⁵ the Court held that the claimant – a musician on board an ocean-going vessel – was entitled to recover for suffering from coronary artery disease. In *Sepulveda v. Employees' Compensation Commission*,³⁶ it was declared that the employee's illness,

²⁶ Citing *De Jesus v. National Labor Relations Commission*, 557 Phil. 260 (2007).

²⁷ Citing *Seagull Maritime Corporation v. Dee*, 548 Phil. 660 (2007).

²⁸ G.R. No. 193047, March 3, 2014.

²⁹ G.R. No. 206505, July 24, 2013, 702 SCRA 311.

³⁰ G.R. No. 191491, December 14, 2011, 662 SCRA 670.

³¹ G.R. No. 186289, June 29, 2010, 622 SCRA 352.

³² 347 Phil. 46 (1997).

³³ G.R. No. 183908, December 4, 2009, 607 SCRA 796.

³⁴ 552 Phil. 130 (2007).

³⁵ 521 Phil. 330 (2006).

³⁶ 174 Phil. 242 (1978).

myocardial infarction, was directly brought about by his employment as schoolteacher or was a result of the nature of such employment.

In the present case, petitioners flatly claim that Bengson's hypertensive cardio-vascular disease is not compensable on the sole basis of its company-designated physician Agbayani's declaration that such illness is not work-related.

However, the Court finds that Bengson's illness is work-related. The undisputed facts indicate that respondent has been working for petitioners since 1988; that per his service record,³⁷ he has been serving as Third Mate for twelve (12) years; and that as Third Mate, he was saddled with heavy responsibilities relative to navigation of the vessel, ship safety and management of emergencies. It is beyond doubt that respondent was subjected to physical and mental stress and strain: as Third Mate, he is the ship's fourth in command, and he is the ship's safety officer; these responsibilities have been heavy burdens on respondent's shoulders all these years, and certainly contributed to the development of his illness. Besides, "[i]t is already recognized that any kind of work or labor produces stress and strain normally resulting in wear and tear of the human body."³⁸ "Notably, it is a matter of judicial notice that an overseas worker, having to ward off homesickness by reason of being physically separated from his family for the entire duration of his contract, bears a great degree of emotional strain while making an effort to perform his work well. The strain is even greater in the case of a seaman who is constantly subjected to the perils of the sea while at work abroad and away from his family."³⁹

Having worked for petitioners since 1988 under employment contracts that were continuously renewed, it can be said that respondent spent much of his productive years with petitioners; his years of service certainly took a toll on his body, and he could not have contracted his illness elsewhere except while working for petitioners. To be sure, the Court has ruled that "the list of illnesses/diseases in Section 32-A⁴⁰ does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible

³⁷ *Rollo*, p. 156.

³⁸ *Magsaysay Maritime Services v. Laurel*, G.R. No. 195518, March 20, 2013, 694 SCRA 225, 241-242

³⁹ *Fil-Pride Shipping Company, Inc. v. Balasta*, supra note 28.

⁴⁰ Section 32-A of the POEA Contract Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels states:

SECTION 32-A OCCUPATIONAL DISEASES

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The seafarer's work must involve the risks describe herein;
2. The disease was contracted as a result of the seafarer's exposure to the describe risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;

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

The following diseases are considered as occupational when contracted:

x x x x

injuries that render a seafarer unfit for further sea duties.”⁴¹ And equally significant, “it is not the injury which is compensated, but rather it is the incapacity to work resulting in the impairment of one’s earning capacity.”⁴²

Respondent’s illness, which has likewise been diagnosed as intracerebral hemorrhage⁴³ or hemorrhagic stroke,⁴⁴ is a serious condition,⁴⁵ and could be deadly.⁴⁶

In *Alpha Ship Management Corporation v. Calo*,⁴⁷ it was held that an employee’s disability becomes permanent and total when so declared by the company-designated physician, or, in case of absence of such a declaration either of fitness or permanent total disability, upon the lapse of the 120 or 240-day treatment period under Article 192 (c) (1) of the Labor Code⁴⁸ and Rule X, Section 2 of the Amended Rules on Employees’ Compensation Commission,⁴⁹ while the employee’s disability continues and he is unable to engage in gainful employment during such period, and the company-designated physician fails to arrive at a definite assessment of the employee’s fitness or disability. This is true regardless of whether the employee loses the use of any part of his body or if the

⁴¹ *Fil-Pride Shipping Company, Inc. v. Balasta*, supra note 28, citing *Maersk Filipinas Crewing Inc. v. Mesina*, G.R. No. 200837, June 5, 2013, 697 SCRA 601, 614.

⁴² Id. citing *Valenzona v. Fair Shipping Corporation*, G.R. No. 176884, October 19, 2011, 659 SCRA 642, 652-653.

⁴³ *Rollo*, p. 160.

⁴⁴ Hemorrhagic Strokes - American Stroke Association, http://www.strokeassociation.org/STROKEORG/AboutStroke/TypesofStroke/HemorrhagicBleeds/Hemorrhagic-Strokes-Bleeds_UCM_310940_Article.jsp

⁴⁵ Lewis B. Morgenstern, MD, FAHA, FAAN, Chair; J. Claude Hemphill III, MD, MAS, FAAN, Vice-Chair; Craig Anderson, MBBS, PhD, FRACP; Kyra Becker, MD; Joseph P. Broderick, MD, FAHA; E. Sander Connolly Jr, MD, FAHA; Steven M. Greenberg, MD, PhD, FAHA, FAAN; James N. Huang, MD; R. Loch Macdonald, MD, PhD; Steven R. Messé, MD, FAHA; Pamela H. Mitchell, RN, PhD, FAHA, FAAN; Magdy Selim, MD, PhD, FAHA; Rafael J. Tamargo, MD; on behalf of the American Heart Association Stroke Council and Council on Cardiovascular Nursing, *Guidelines for the Management of Spontaneous Intracerebral Hemorrhage, A Guideline for Healthcare Professionals From the American Heart Association/American Stroke Association*, published online before print on July 22, 2010. <http://stroke.ahajournals.org/content/41/9/2108.abstract>

⁴⁶ Maria I. Aguilar, MD and Thomas G. Brott, MD, *Update in Intracerebral Hemorrhage*, July 2011. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3726132/> -- The National Center for Biotechnology Information (NCBI) is a division of the National Library of Medicine (NLM) at the National Institutes of Health (NIH), U.S. Department of Health and Human Services. <http://www.ncbi.nlm.nih.gov/About/glance/ourmission.html>; <http://www.nih.gov/about/>

⁴⁷ G.R. No. 192034, January 13, 2014.

⁴⁸ Art. 192. Permanent total disability. – x x x

(c) The following disabilities shall be deemed total and permanent:

(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;

x x x x

⁴⁹ RULE X

Temporary Total Disability

x x x x

Sec. 2. Period of entitlement. – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at anytime after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

injury or disability is classified as Grade 1 under the POEA-SEC.

Bengson was repatriated on October 21, 2007 and immediately brought to the Manila Doctors Hospital for confinement. He was discharged on November 1, 2007. On November 4, 2007, Agbayani issued an Initial Out-Patient Consult Report which stated that respondent's illness was not work-related. As a result of such adverse declaration, respondent filed NLRC OFW Case No. (M) 07-10402-08. Meanwhile, respondent underwent medication and rehabilitation under Agbayani's supervision until February 2008.⁵⁰ However, Agbayani did not make a definite assessment of respondent's fitness or disability, even up to this day; thus, respondent's medical condition remains unresolved. In the meantime, respondent's medical condition persists, and petitioners did not renew or continue with respondent's employment; nor was he able to work for other employers. Quite understandably, respondent's condition remains delicate given that his illness is serious and could be fatal. Thus, applying the above doctrine in *Alpha Ship Management Corporation v. Calo*, respondent is deemed totally and permanently disabled and entitled to the corresponding benefit under the POEA-SEC in the amount of US\$60,000.00.

Finally, while the CA's assailed Decision is correct, it should nonetheless be modified, such that the award therein should be paid in the national currency.

WHEREFORE, the Petition is **DENIED**. The assailed July 15, 2011 Decision and September 9, 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 118501 are **AFFIRMED**, with the **MODIFICATION** that the adjudged awards of US\$60,000.00 and attorney's fees equivalent to 10% *per cent* thereof, be paid in Philippine pesos, computed at the exchange rate prevailing at the time of payment.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

⁵⁰ *Rollo*, p. 42.


ARTURO D. BRION
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC MARIO VICTOR 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