



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**DELIA B. BORRETA AS  
 WIDOW OF DECEASED  
 MANUELA A. BORRETA, JR.,**  
 Petitioner,

**G.R. No. 224026**

**Present:**

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

- versus -

**EVIC HUMAN RESOURCE  
 MANAGEMENT, INC.,  
 ATHENIAN SHIP  
 MANAGEMENT INC., and/or  
 MA. VICTORIA C. NICOLAS,**  
 Respondents.

**Promulgated:**

**FEB 03 2020**

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**DECISION**

**REYES, J. JR., J.:**

**The Facts and The Case**

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> seeking to annul and set aside the October 13, 2015 Decision<sup>2</sup> and the April 12, 2016 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 139455 which modified the February 2, 2015 Decision<sup>4</sup> of the Panel of Voluntary Arbitrators (Panel) of the National Conciliation and Mediation Board (NCMB) in VA Case No. AC-73-RCMB-NCR-MVA-094-03-09-2014 by affirming only the \$89,100.00 death benefit, and ₱162,080.00 transportation

<sup>1</sup> *Rollo*, pp. 3-59.

<sup>2</sup> Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Ramon A. Cruz and Melchor Quirino C. Sadang, concurring; *id.* at 67-96.

<sup>3</sup> *Id.* at 97-98.

<sup>4</sup> *Id.* at 105-151.

and burial expenses awarded to petitioner Delia B. Borreta, the widow of Manuel A. Borreta, Jr. (Manuel), and deleting the awards for insurance proceeds, uncollected salary, overtime pay, unpaid leave credits, unpaid daily subsistence allowance, owner's bonus, moral damages, exemplary damages and attorney's fee.

On June 19, 2013, Manuel was employed by respondent Evic Human Resource Management, Inc. (Evic), for and in behalf of its foreign principal, respondent Athenian Ship Management, Inc. (Athenian), as cook on board *M/V Sea Lord*. Respondent Ma. Victoria C. Nicolas is the president of Evic.<sup>5</sup> The terms and conditions of his employment are as follows:

1. That the seafarer shall be employed on board under the following terms and conditions:
  - 1.1. Duration of Contract: 7 MONTHS + 1 MONTH UPON MUTUAL CONSENT OF BOTH PARTIES
  - 1.2. Position: Cook
  - 1.3. Basic Monthly Salary: ALL FIGURES IN USDOLLARS: 746.00
  - 1.4. Hours of Work: HRS/WEEK 40.
  - 1.5. Overtime: /FIXED G.O.T: 554.00 (103 HRS)/OWNER BONUS: 100.00
  - 1.6. Vacation Leave with Pay: /SUB. ALLOW.: 126.00/LV. WAGES:174
  - 1.7. Point of Hire: MANILA, PHILIPPINES
  - 1.8. Collective Bargaining Agreement, if any:<sup>6</sup>

On June 25, 2013, Manuel joined the vessel *M/V Sealord* and commenced his duties.<sup>7</sup>

On October 8, 2013, while *M/V Sea Lord* was cruising along the waters of Brazil towards Dammam, Kingdom of Saudi Arabia, Manuel was found lifeless inside the toilet of the vessel's hospital cabin. Because of this tragic incident, the vessel changed course and set sail to Galle, Sri Lanka instead, where Manuel's remains were unloaded.<sup>8</sup>

On October 18, 2013, Senior Counsel Murshid Maharoo (Maharoo) and Junior Counsel Shamir Zavahir (Zavahir) conducted an investigation on the death of Manuel. In the Investigation Report on the Death of Manuel Augustine Borreta, Jr.<sup>9</sup> (Investigation Report) they prepared, the investigators stated that the statements of the master, chief officer, crew members, logged in the vessel log book as well as the details on the medical assistance record showed that Manuel had not been acting like his usual self. On October 7, 2013, he failed to report for work and locked himself in the vessel's gymnasium and then later shut himself inside the hospital. When they tried to communicate with him, Manuel sounded distraught, talked non-

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<sup>5</sup> Id. at 99.

<sup>6</sup> *CA rollo*, p. 349.

<sup>7</sup> Id. at 12.

<sup>8</sup> *Rollo* pp. 5-6; *CA rollo*, pp. 647.

<sup>9</sup> *CA rollo*, pp. 261-306.

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sense and fearful that someone was going to kill him. They could only talk to him through the ship's phone. Manuel was offered food the following day but he refused to partake of the same. When Manuel stopped communicating with them, the crew decided to force open the door to the hospital room but found it unlocked and empty. The crew eventually found Manuel inside the vessel's hospital lavatory, with a nylon cord tied around his neck and hanging on a hook, dead. These facts notwithstanding, the investigators failed to identify the cause of Manuel's death. As such, the Death Certificate that was issued indicated the cause of death as "Under investigations."<sup>10</sup>

On October 23, 2013, the remains of Manuel was repatriated to the Philippines.<sup>11</sup> Upon the request of the sister of the deceased, Dr. Roberto Rey C. San Diego, M.D., Medico-Legal Officer of the National Bureau of Investigation (NBI), autopsied the remains of Manuel on October 24, 2013.<sup>12</sup> In Autopsy Report No. N-13-1056 that was subsequently issued, the NBI stated that the cause of death was "CONSISTENT WITH ASPHYXIA BY LIGATURE."<sup>13</sup>

On December 7, 2013, Dr. Rohan Ruwanpura (Dr. Ruwanpura), Consultant Judicial Medical Officer at Galle, Sri Lanka issued a post-mortem report on the post-mortem examination he conducted on Manuel on October 19, 2013,<sup>14</sup> with the following observations:

A ligature prepared from white twisted nylon rope was present around the upper neck. It was tied around the neck with a sliding knot [running noose] positioned over the left mastoid region of back of the head.

Removal of the ligature revealed a parchment like abraded mark, mostly regular in shape and about 0.5 cm in width. The mark was deeper and mostly horizontal on right side of the neck, then taking upwards course on front and back aspect of upper part of the neck to form united inverted "V" mark over left mastoid region, in relation to position of the knot.<sup>15</sup>

From the foregoing, Dr. Ruwanpura remarked that "the circumstantial data and [his] autopsy findings are in keeping with self suspension." Thus, pronounced the cause of death to be asphyxia due to hanging.<sup>16</sup>

Subsequently, petitioner filed her claim for benefits arising from the death of Manuel, but the respondents refused to grant her any. Respondents averred that Manuel's death was not compensable because he took his own life.<sup>17</sup> This prompted petitioner to file a Notice to Arbitrate<sup>18</sup> on August 7,

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<sup>10</sup> Id. at 307.

<sup>11</sup> *Rollo*, p. 6.

<sup>12</sup> *CA rollo*, p. 209.

<sup>13</sup> Id. at 350-351.

<sup>14</sup> Id. at 315-323.

<sup>15</sup> Id. at 317.

<sup>16</sup> Id. at 322.

<sup>17</sup> *Rollo*, p. 108.

<sup>18</sup> *CA rollo*, pp 311-314.

2014, before the NCMB of the Department of Labor and Employment (DOLE) demanding for payment of the following:

1. Compensation for Loss of Life pursuant to the applicable CBA in the amount of US\$89,100.00;
2. Death Benefit in the amount of US\$50,000.00 and Burial Expenses in the amount of US\$1,000.00 pursuant to the Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels;
3. Mandatory Insurance Benefit of at least US\$10,000.00 pursuant to R.A. 10022;
4. Moral damages in the amount of [PhP] 2,500,000.00;
5. Exemplary damages in the amount of [PhP] 2,500,000.00;
6. Attorney's fees equivalent to ten (10) per cent of the total monetary award.<sup>19</sup>

In asking for compensation for loss of life, petitioner averred that under Article 25 of the Collective Bargaining Agreement (CBA) which covers Manuel's employment contract, respondents unconditionally bound themselves to pay the same in the event of death of a seafarer through any cause while employed by them. The Philippine Overseas Employment Administration's (POEA's) Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels, furthermore entitled her to death and burial benefits. Her claim for insurance benefits was likewise supported by Republic Act (R.A.) No. 10022.<sup>20</sup> The wanton and oppressive manner by which respondents refused to accord to her the benefits due her made respondents liable for moral and exemplary damages, as well as attorney's fees.<sup>21</sup>

Respondents, for their part, insisted that they were not liable to pay compensation with respect to the death of Manuel since the POEA's Standard Employment Contract (POEA-SEC), as well as the CBA specifically exclude from the payment of benefits for death that are directly attributable to the seafarer. As proof that Manuel committed suicide, respondents presented the following pieces of evidence: (a) Investigation Report on the death of Manuel conducted by Maharooof and Zavahir on October 18, 2013, on board *M/V Sea Lord* which included the individual statements of Manuel's co-workers regarding his death;<sup>22</sup> (b) photocopy of

<sup>19</sup> Id. at 314.

<sup>20</sup> AN ACT AMENDING REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINO ACT OF 1995, AS AMENDED, FURTHER IMPROVING THE STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES.

<sup>21</sup> CA *rollo*, pp. 312-313.

<sup>22</sup> Id. at 261-301.

pictures taken of the room where Manuel hanged himself and the retrieval of his body from where he was suspended;<sup>23</sup> (c) Cause of Death Form stating the cause of Manuel's death was under investigation;<sup>24</sup> and (d) Post-Mortem Report issued by Dr. Ruwanpura stating Manuel's cause of death as asphyxia due to hanging.<sup>25</sup> Inasmuch as Manuel committed suicide, petitioner, clearly, is not entitled to any benefits arising therefrom. Even if death by suicide was ruled out, respondents argued that no benefits can still be granted to the petitioner because she failed to present proof that Manuel's death during his employment was due to any work-related cause as required under the POEA-SEC or the CBA.<sup>26</sup>

Moreover, respondents posited that the petitioner cannot claim insurance benefits under R.A. No. 10022 because only death through natural and accidental causes are covered by the said law. Since suicide is neither natural nor accidental, the same is not compensable under R.A. No. 10022.<sup>27</sup> Since respondents are justified in denying petitioner's claims, there is also no cogent reason to award moral damages, exemplary damages and attorney's fees in her favor.<sup>28</sup>

On February 2, 2015, the Panel rendered a Decision<sup>29</sup> in favor of the petitioner. The individual accounts of Manuel's co-workers of his bizarre attitude failed to convince the Panel that Manuel took his own life. It also found unworthy of belief the reports of the various investigators given that the same were prepared 10 days after Manuel's death. The Panel likewise made much of the NBI Autopsy Report which made no mention of the word "hanging" or "suicide," but only concluded the cause of death as "consistent with asphyxia by ligature." Thus, the Panel ruled that petitioner's narration of her warm and happy telephone conversations with Manuel where the latter shared his dreams for her and his siblings contradicted respondents' claim of suicide.<sup>30</sup> Since there is no substantial evidence to warrant a finding of suicide, the Panel held that petitioner was entitled to death benefits under the CBA.<sup>31</sup> Even assuming that it had been duly proved that Manuel took his own life, petitioner would still be entitled to death benefits considering that Manuel died while in respondents' employ and because the CBA makes them liable therefor, regardless of the cause of death. In addition to death benefits, Section 25.1 of the CBA makes respondents' liable to the petitioner for transportation and burial expenses.<sup>32</sup> As for the insurance benefits, the Panel held that petitioner must be granted the same since suicide had not been established.<sup>33</sup> The Panel also awarded to the

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<sup>23</sup> Id. at 302-306.

<sup>24</sup> Id. at 307.

<sup>25</sup> Id. at 315-322.

<sup>26</sup> Id. at 239-249.

<sup>27</sup> Id. at 249-252.

<sup>28</sup> Id. at 253-256.

<sup>29</sup> Supra note 4.

<sup>30</sup> *Rollo*, pp. 130-131.

<sup>31</sup> Id. at 133-135.

<sup>32</sup> Id. at 131, 136.

<sup>33</sup> Id. at 133, 135.

petitioner uncollected salaries due to Manuel given that the respondents' did not deny the same. It also found that substantial evidence had been presented showing Manuel's entitlement to guaranteed overtime pay, unpaid leave pay, unpaid daily allowance and owner's bonus. Hence, awarded the same to the petitioner.<sup>34</sup> The Panel disposed in this wise:

WHEREFORE, all the foregoing premises being duly considered, in the light of the facts as borne by the evidence on record, as well as based on the law and jurisprudence, [judgment] is hereby rendered as follows:

First, Death Benefits are hereby granted in the Philippine currency equivalent to US \$89,100.00 in accordance with the CBA covering the late [Manuel] A. [Borreta], Jr.

Second, the proceeds of the AWWA, RA 10022-mandated insurance in the Philippine currency equivalent of US \$15,000.00

Third, the following are likewise awarded:

- a. US \$670.03 representing Borreta Jr.'s uncollected salary; (if there is proof by original receipt of payment, this should be deleted)
- b. Reimbursement of the [total] burial and transport expenses in the amount of [₱]162,080.00
- c. [Guaranteed] overtime pay for four (4) months in the amount of US \$3,730.00
- d. Unpaid leave credit/pay in the amount of US \$696.00
- e. Unpaid duly subsistence allowance US \$504.00
- f. Owner's Bonus in the amount of US \$400.00

All awards in dollars shall be delivered in Philippine Currency equivalent at current rate of exchange at the time [this] decision is promulgated.

Fourth, Moral damages in the amount of [PhP] 1.5 Million are also awarded in their Philippine currency equivalent.

Fifth, Exemplary damages in the amount of [PhP] 1.5 Million are likewise granted in [their] Philippine currency equivalent.

Sixth[,] Attorney's fees in the amount of 10% of all the monetary awards, as follows:

- a. Peso Award:
  - i. Award: [PhP] 3,162,080.00
  - ii. Attorney's fees: [PhP] 316,208.00

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<sup>34</sup> Id. at 135-136.

- b. U.S. Dollar Awards:
  - i. Total Awards: \$ 109,4030
  - ii. Attorney's fees: \$ 10,943

Seventh, [r]espondents are directed to pay interest from the death of M.A. Borreta Jr., on 08 Oct 2013 up to finality of this DECISION, and 12% interest from finality of this DECISION up to [the] full satisfaction of judgment.

Eight[,] all the respondents are jointly and severally liable to satisfy the judgment, in accordance with law.

Parties are hereby reminded that in their SUBMISSION AGREEMENT dated 18 September 2014, they have obligated themselves, "inter alia", "TO ABIDE BY AND COMPLY WITH THE DECISION OF THE ARBITRATORS ON THE ISSUES AND CONSIDER SAID DECISION AS FINAL AND BINDING UPON THE PARTIES HEREIN."

The spirit of the law governing voluntary arbitration is to effect a voluntary implementation of the decision rendered by the arbitrators, who, after all, were selected by the parties themselves. This is precisely what makes voluntary arbitration different from compulsory arbitration. Let then the parties herein remain faithful to that intent.

Let the parties be true to their commitment. And let the difference of this mode of dispute settlement be upheld as distinguished from the other modes, in the higher interest of substantive justice, as enshrined in the Philippine Constitution.

SO ORDERED.<sup>35</sup>

Respondents moved for reconsideration but the Panel denied it in a Resolution<sup>36</sup> dated January 23, 2015.<sup>37</sup> Aside from denying the motion for lack of merit, the Panel also ruled that the same was filed out of time. Considering that respondents received the February 2, 2015 Decision on February 5, 2015, the motion should have been filed on February 15, 2015, the last day for the filing of the same even if the 10<sup>th</sup> day fell on a Sunday. Since respondents filed their motion for reconsideration the following day, the filing thereof was already a day late, rendering the Panel's assailed Decision final and executory.

On April 23, 2015, petitioner moved for the resolution of her motion for execution of the Decision of the Panel.<sup>38</sup>

<sup>35</sup> Id. at 148-150.

<sup>36</sup> Id. at 152-163.

<sup>37</sup> It appears that the Panel's Resolution should have been dated February 23, 2015, instead of January 23, 2015, considering that respondents filed their motion for reconsideration of the Panel's Decision on February 16, 2015.

<sup>38</sup> CA *rollo*, p. 626.

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On March 3, 2015, respondents filed a Manifestation with Opposition to Complainant's Motion for Execution (Manifestation with Opposition).<sup>39</sup> Records disclosed that the Panel had not acted on the same.

Aggrieved, respondents filed on March 12, 2015 a Petition for Review (with Urgent Prayer for the Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction) before the CA.<sup>40</sup>

Subsequently, or sometime in May 2015, respondents filed with the Panel a pleading entitled Reiterative Motion to Set Case for Clarificatory Conference (Reiterative Motion).<sup>41</sup>

On appeal, the CA recognized the suppletory application of the Rules of Court and prevailing jurisprudence in the computation of periods in the filing of pleadings in court. Since the last day of the 10-day period to appeal fell on a Sunday, the CA held that the respondents timely filed their motion for reconsideration the next working day, or on February 16, 2015. It also held that respondents did not engage in forum shopping when they filed their Manifestation with Opposition as the same was just a response to petitioner's motion for execution, and not a second motion for reconsideration. In the same vein, respondents' Reiterative Motion only addressed petitioner's motion to resolve her motion for execution.

Contrary to the ruling of the Panel, the CA found that respondents have successfully proved by substantial evidence that Manuel killed himself on October 8, 2013. Such notwithstanding, respondents remain liable under the parties' CBA for death benefits, particularly Section 25.1 thereof. Since the same provision provides that the employer will shoulder the costs for the transportation and burial of Manuel's body in the Philippines, the CA ordered the respondents to, reimburse petitioner the transportation and burial expenses she incurred.

As for the other awards, the CA held that petitioner was not entitled to the same. It held that life insurance may only be awarded in case of accidental death. Since death by suicide cannot in any way be ruled as accidental, petitioner was not entitled to claim the life insurance benefit under R.A. No. 10022. The CA deleted the awards for unpaid salary, guaranteed overtime pay, leave pay, daily allowance/subsistence allowance and owner's bonus in light of the evidence presented by the respondents that the same had already been paid to, and received by the petitioner.<sup>42</sup>

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<sup>39</sup> Id. at 210-224.

<sup>40</sup> Id. at 3-74.

<sup>41</sup> Id. at 626, 633-637.

<sup>42</sup> Id. at 168-176.



The CA also ruled that petitioner was not entitled to moral and exemplary damages, and attorney's fees, and thus deleted the same.<sup>43</sup> The CA disposed in this wise:

**WHEREFORE, premises considered, the APPEAL is PARTLY GRANTED. The assailed Decision dated 2 February 2015 is hereby MODIFIED,** to the extent that the awards for insurance proceeds, amounting to US\$15,000[,] uncollected salary amounting to US\$670.03, overtime pay amounting to US\$3730.00, unpaid leave credits/pay in the amount of US\$696.00, unpaid daily subsistence allowance in the amount for US\$504.00, [owners' bonus in the amount of] US\$400.00 are **all DELETED.**

The awards for moral and exemplary damages and attorney's fees, for lack of factual and legal basis, are likewise **DELETED.**

[Respondents] **REMAIN LIABLE** to pay US\$89,100.00 for death benefits and [PhP] 162,080.00 for transportation and burial expenses as provided by their CBA with their seafarers. As ruled above, these are subject to an interest of 6% per annum reckoned from the date of filing of the Notice to Arbitrate on 7 August 2014 until the finality of this Decision. Thereafter, the interest of 6% per annum shall be imposed on these amounts until fully paid.

**SO ORDERED.**<sup>44</sup>

Aggrieved, the petitioner moved for reconsideration, but the CA denied it in a Resolution<sup>45</sup> dated April 12, 2016.

Not accepting defeat, petitioner is now before the Court *via* the present petition.

### **The Issues Presented**

Petitioner raises the following issues for the Court's consideration:

#### I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED UNDER THE CONSTITUTION, THE LAW AND ESTABLISHED JURISPRUDENCE WHEN IT DID NOT DISMISS THE PETITION FOR REVIEW FILED BEFORE IT BY HEREIN RESPONDENTS FOR LACK OF APPEL[L]ATE JURISDICTION OVER THE SAME.

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<sup>43</sup> *Rollo*, pp. 67-94.

<sup>44</sup> *Id.* at 95.

<sup>45</sup> *Supra* note 3.

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## II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED UNDER THE RULES AND PREVAILING JURISPRUDENCE WHEN IT DID NOT ALSO DISMISS THE PETITION FOR REVIEW FILED BEFORE IT BY HEREIN RESPONDENTS FOR THEIR WILLFUL AND DELIBERATE ACTS OF FORUM SHOPPING.

## III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED UNDER THE LAW AND THE RULES WHEN IT DID NOT DISMISS RESPONDENTS' PETITION FOR REVIEW ON THE ADDITIONAL GROUND THAT RESPONDENT'S MOTION FOR THE RECONSIDERATION OF THE VA PANEL'S DECISION OF 02 FEBRUARY 2015 WAS NOT DULY FILED.

## IV.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED UNDER THE RULES AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED THE WELL-ENTRENCHED RULE THAT FACTUAL FINDINGS OF QUASI-JUDICIAL BODIES ARE ACCORDED NOT ONLY GREAT RESPECT BUT EVEN FINALITY.

- A. *THE HONORABLE COURT OF APPEALS GRAVELY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED THE FINDING OF THE VA PANEL A QUO THAT NO ADEQUATE EVIDENCE EXISTS THAT SEAFARER BORRETA, JR. COMMITTED SUICIDE.*
- B. *THE HONORABLE COURT OF APPEALS GRAVELY ERRED UNDER THE LAW AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED THE FINDING OF THE VA PANEL A QUO HOLDING RESPONDENTS LIABLE TO PAY INSURANCE BENEFIT[S] UNDER R.A. 10022.*
- C. *THE HONORABLE COURT OF APPEALS GRAVELY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED THE RULING OF THE VA PANEL A QUO HOLDING RESPONDENTS LIABLE FOR CBA MANDATED OVERTIME PAY, LEAVE PAY, SUBSISTENCE ALLOWANCE AND OWNER'S BONUS.*
- D. *THE HONORABLE COURT OF APPEALS GRAVELY ERRED UNDER THE LAW AND JURISPRUDENCE AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED THE VA PANEL'S AWARD OF MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES..<sup>46</sup>*

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<sup>46</sup> Id. at 12-13.

### The Arguments of the Parties

Petitioner contends that the CA should not have entertained the appeal for being filed out of time. She points out that since respondents have only 10 days from receipt on February 26, 2015 of the Panel's January 23, 2015 Resolution, they should have filed their appeal on March 8, 2015. The 15-day period to appeal under Rule 43 of the Rules of Court is not applicable to voluntary arbitration cases under the Labor Code. Since respondents' appeal was filed only on March 12, 2015, the same was filed four days late, rendering the assailed Decision and Resolution of the Panel final and executory; hence, not appealable. Perforce, the CA should have dismissed the appeal outright.<sup>47</sup>

Moreover, the appeal should have been dismissed at once for respondents' failure to move for the reconsideration of the Panel's Decision. Petitioner explains that respondents motion for reconsideration before the Panel had not been duly filed inasmuch as their motion was not filed within 10 days from their receipt of the Panel's Decision, and the same was not filed directly with the Panel. It is of no moment that the 10<sup>th</sup> day within which respondents have to file their motion falls on a Sunday. The rule which states that when the last day to file a pleading falls on a Saturday, Sunday or Holiday, the same may be filed on the next business day finds no application in this case considering that the Voluntary Arbitrators that comprised the Panel were private individuals, and there is no law or rule that prohibits them from holding office on a Saturday, Sunday or holiday. Since respondents' motion for reconsideration was not filed in accordance with the mandatory law and rules governing voluntary arbitration proceedings, the CA should have dismissed their appeal straightway.<sup>48</sup>

Petitioner disagrees with the CA that respondents did not engage in forum shopping. Contrary to the view of the CA, the Manifestation with Opposition was not filed to oppose the motion for execution she filed, but was in reality a second motion for reconsideration as it sought the reversal and setting aside of the Panel's Decision despite the denial of respondents' earlier motion for reconsideration. Without waiting for the resolution of the said Manifestation with Opposition, respondents filed with the CA their appeal, which also sought for the reversal and setting aside of the very same February 2, 2015 Decision of the Panel. Their contumacious acts, however, did not end there. After filing their appeal with the CA and failing to obtain the Temporary Restraining Order (TRO) or injunctive writ they prayed for, they filed their Reiterative Motion before the Panel, which in substance was just another second motion for reconsideration. Respondents did not inform the CA about it and even lied in their Compliance<sup>49</sup> when they stated that, *"to the best of their knowledge, NO other cases and/or proceedings*

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<sup>47</sup> Id. at 12-19.

<sup>48</sup> Id. at 27-29.

<sup>49</sup> Id. at 416-417.

*involving the same parties and issues are pending before the Honorable Court or other courts.*” All the actions actively and simultaneously pursued by the respondents before the Panel and the CA involved the same and related issues and are all aimed at obtaining the same relief — the reversal of the Decision of the Panel in two fora. Such is clearly a case of forum shopping warranting the outright dismissal of respondents’ appeal before the CA.<sup>50</sup>

On the merits, petitioner asseverates that the factual findings of the Panel should have been respected by the CA because the same were in accord with the law and evidence on record. She staunchly maintains that there was nothing on record which showed that Manuel committed suicide. Like the Panel, petitioner avers that the statements of the crew members about the actuations of Manuel do not lead to a logical conclusion that he took his own life for being hazy, equivocal, and non-committal. The reports (Investigation Report;<sup>51</sup> Master’s Report<sup>52</sup>) relative to the said incident were also not worthy of belief because they lack spontaneity as they were prepared 10 days after the incident. Even the Cause of Death Form issued by the Sri Lankan authorities failed to conclude Manuel’s death as suicide, as in fact it only stated the cause thereof to be under investigation. The subsequent December 7, 2013 Post-Mortem Report released by Dr. Ruwanpura finding the cause of death as “asphyxia due to hanging” was also suspected for being issued some two months after the incident. It could not even be verified whether the said Post-Mortem Report had been properly translated. The statements of the crew members, Investigative Report, Master’s Report and the December 7, 2013 Post-Mortem Report actually lacked probative value for being mere photocopies. No police investigation report conducted by the harbor authorities of Galle, Sri Lanka was presented. The NBI Autopsy Report made no mention of the words “hanging” or “suicide,” but merely labelled the cause of Manuel’s death as “consistent with asphyxia by ligature.” The findings that Manuel did not sustain any injuries are not supported by the evidence on record as the NBI Autopsy Report<sup>53</sup> showed otherwise. In fact, said findings appear to be more consistent with strangulation, a clear indication of foul play. *Viz.:*

#### **EXTERNAL INJURIES:**

**Head and Neck:** Ligature mark, antero-lateral aspect, contused and abraded, 48.0 cm. long. The right extremity is directed involving upwards and backwards, towards the right auricular area and ending at a point 15.0 cm. behind and 4.0 cm. below the right external auditory meatus. Widest area of 1.0 cm. and narrowest at 0.4 cm.

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<sup>50</sup> Id. at 19-27.

<sup>51</sup> Supra note 9.

<sup>52</sup> CA *rollo*, p. 271.

<sup>53</sup> Id. at 350-351.

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**Upper Extremities:**

Contusion:

- 1.) 5.0 x 1.0 cm., dorsal aspect on the lateral side of the right thumb and index finger.

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**Lower Extremities:**

Contusion:

- 1.) 10.0 x 5.0 cm., antero-medial aspect on the middle 3<sup>rd</sup> of the right leg.

Since respondents fail to prove their claim of suicide, they are liable not only for death benefits, transportation expenses and burial expenses, but they must also pay the insurance benefits pursuant to R.A. No. 10022. Anent her claims for other monetary benefits, petitioner maintains that respondents must be made to pay the CBA mandated guaranteed overtime pay, leave pay, daily allowance/subsistence allowance and owner's bonus for their failure to present competent and credible evidence showing payment of the same to Manuel. She claims that the US\$670.03 paid to Manuel only covers the period from October 1, 2013 to October 8, 2013, leaving the mandated benefits of Manuel from June 2013, the start of his employment, up to the whole month of September 2013, unpaid. While the respondents presented documents showing payment of Manuel's wages for the months prior to October 2013, the same did not reflect that the same were in fact payments for Manuel's guaranteed overtime pay, leave pay, daily allowance/subsistence allowance and owner's bonus for June 2013, until the end of September 2013.

Petitioner insists that respondents' bad faith had been duly established by the following circumstances – (a) concealment and refusal to furnish the petitioner with a copy of the CBA in order to mislead Manuel and his widow, petitioner herein, into thinking that no CBA applied to the former; (b) suppression of Police Investigation Report which could have shown that Manuel had been killed; (c) failure to procure the mandatory life insurance policy for Manuel and refusal to pay the life insurance benefit thereunder; (d) refusal to provide any form of assistance to Manuel's next of kin when his remains were repatriated; (e) withholding of Manuel's last earned salary unless a quitclaim is signed by the petitioner freeing respondents from liability arising out of her husband's death; (f) eventual release of the said last earned salary only after five long months from the death of Manuel; (g) berating petitioner for seeking the Government's help in the repatriation of Manuel; and (h) the sudden decision to bring Manuel's remains to Galle, Sri Lanka despite the fact that the ship's destination is Dammam, Kingdom of Saudi Arabia – all justify the award in her favor of moral and exemplary damages. Furthermore, their unjustified refusal to grant her legitimate claims compelled her to litigate, therefore, entitles her to attorney's fees.

Respondents, for their part, averred that the petitioner should stop her insatiable quest for financial gain as the CA only removed the highly questionable benefits she had been awarded by the Panel but retained the US\$89,100.00 death benefits and ₱162,080.00 transportation and burial expenses awarded in her favor, and which amounts they no longer contest.<sup>54</sup>

Contrary to petitioner's supposition on forum shopping, respondents contend that their recourse had been valid and legally justifiable. There is nothing in their Manifestation with Opposition that would even suggest that the same was a second motion for reconsideration. Respondents explain that their "Manifestation" merely expressed their displeasure with the violation of their right to due process, while their "Opposition" conveyed their disapproval to petitioner's motion for the execution of the assailed Decision rendered by the Panel. It is inconsequential that respondents also pray for the reversal of the decision of the Panel in the said pleading. It must be taken into account that the petitioner moved for the execution of the Panel's Decision on the very same day the Panel denied respondents' Motion for Reconsideration with Urgent Motion for Clarificatory Conference.<sup>55</sup> It is precisely for that reason why they filed a "Manifestation" with an "Opposition." Respondents add that it is very unlikely that conflicting decisions will arise given that what was pending before the NCMB is petitioner's motion for execution and not any of respondents' motion.<sup>56</sup>

Respondents assert that they timely moved for the reconsideration of the Panel's Decision. Contrary to the contention of the petitioner, the Panel is bound by the provisions of the Civil Code and the Rules of Court pertaining to the computation of the period within which an act must be performed. Following Section 1, Rule 22 of the Rules of Court, their motion was timely filed the next working day, since the last day of the filing of the same falls on a Sunday. There is also no rhyme or reason for petitioner's insistence that the motion must be filed directly with any Panel member inasmuch as all proceedings were conducted through the facilities of the NCMB. They likewise maintain that *Philippine Electric Corporation v. Court of Appeals*<sup>57</sup> which provides for a 10-day period to appeal before the CA from receipt of the Decision of the Panel that was cited by the petitioner does not apply in this case in light of the pronouncement of the Supreme Court *En Banc* in a number of cases declaring the appeal period to be 15 days.<sup>58</sup>

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<sup>54</sup> *Rollo*, pp. 447-449.

<sup>55</sup> *CA rollo*, pp. 146-199.

<sup>56</sup> *Rollo*, pp. 449-451.

<sup>57</sup> *See id.* at 15; 749 Phil. 686, 709 (2014); *see id.* at 15.

<sup>58</sup> *Rollo*, pp. 451-458.

While respondents claim that petitioner is not entitled to death benefits, transportation and burial expenses, they asseverate that the benefits awarded by the CA to the petitioner should no longer be disturbed as the same represent the most judicious and fair interpretation of the law and contracts under the circumstances.<sup>59</sup>

### **The Ruling of the Court**

*Respondents' appeal before the CA had been duly filed pursuant to Rule 43 of the Rules of Court*

Petitioner avers that since respondents filed their appeal with the CA 14 days from their receipt of a copy of the Decision of the Panel, the same was filed out of time considering that pursuant to Article 276 of the Labor Code, the appeal must be brought within 10 days. Article 276, formerly Article 262-A, of the Labor Code provides:

ART. 276. Procedures. The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have the power to hold hearings, receive evidences and take whatever action is necessary to resolve the issue or issues subject of the dispute, including efforts to effect a voluntary settlement between parties.

All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witness from the proceedings shall be determined by the Voluntary Arbitrator or panel of Voluntary Arbitrators. Hearings may be adjourned for cause or upon agreement by the parties.

Unless the parties agree otherwise, it shall be mandatory for the Voluntary Arbitrator or panel of Voluntary Arbitrators to render an award or decision within twenty (20) calendar days from the date of submission of the dispute to voluntary arbitration.

The award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.

Upon motion of any interested party, the Voluntary Arbitrator or panel of Voluntary Arbitrators or the Labor Arbiter in the region where the movant resides, in case of the absence or incapacity of the Voluntary Arbitrator or panel of Voluntary Arbitrators, for any reason, may issue a writ of execution requiring either the sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision, order or award.

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<sup>59</sup> Id. at 448, 459-460.

In not a few instances, the Court has variably applied the 10-day period provided in Article 276 of the Labor Code and the 15-day period in Section 4, Rule 43 of the Rules of Court in determining the proper period of appeal from a decision or award rendered by a Voluntary Arbitrator or a Panel thereof to the CA.

In 2004, the Court in *Sevilla Trading Company v. Semana*;<sup>60</sup> *Manila Midtown Hotel v. Borromeo*;<sup>61</sup> and *Nippon Paint Employees Union-Olalia v. Court of Appeals*<sup>62</sup> ruled that the decision of the Voluntary Arbitrator becomes final and executory after the lapse of the 15-day reglementary period within which to file a petition for review under Rule 43. In 2005, the Court made reference for the first time to the 10-day period for the filing of a petition for review from decisions or awards of Voluntary Arbitrators in *Coca-Cola Bottlers Philippines, Inc., Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.*<sup>63</sup> This 10-day period was then applied in the same year in *Philex Gold Philippines, Inc. v. Philex Bulawan Supervisors Union*<sup>64</sup> in declaring the appeal to have been timely filed. The 15-day reglementary period to appeal under Rule 43 was reiterated in 2007 in *Leyte IV Electric Cooperative, Inc. v. LEYECO IV Employees Union-ALU*;<sup>65</sup> in 2008 in *AMA Computer College-Santiago City, Inc. v. Nacino*;<sup>66</sup> and *Mora v. Avesco Marketing Corporation*;<sup>67</sup> in 2009 in *Samahan ng mga Manggagawa sa Hyatt-Nuwhrain-APL v. Voluntary Arbitrator Bacungan*;<sup>68</sup> in 2010 in *Saint Luis University, Inc. v. Cobarrubias*;<sup>69</sup> in 2011 in *Samahan Ng Mga Manggagawa sa Hyatt v. Hon. Voluntary Arbitrator Magsalin*;<sup>70</sup> and in 2013 in *Royal Plant Workers Union v. Coca-Cola Bottlers Philippines, Inc.-Cebu Plant*.<sup>71</sup> However, in the 2014 case of *Philippine Electric Corporation (PHILEC) v. Court of Appeals*;<sup>72</sup> 2015 case of *Baronda v. Court of Appeals*;<sup>73</sup> and 2017 case of *NYK-FIL Ship Management, Incorporated v. Dabu*,<sup>74</sup> the Court applied the 10-day appeal period.<sup>75</sup>

The period to be followed in appealing decisions or awards of Voluntary Arbitrators or Panel of Arbitrators had been settled once and for all by the Court sitting *en banc* in *Guagua National Colleges v. Court of Appeals*.<sup>76</sup> In this case, the Court ruled that the 10-day period stated in

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<sup>60</sup> 472 Phil. 220 (2004).

<sup>61</sup> 482 Phil. 137 (2004).

<sup>62</sup> 485 Phil. 675 (2004).

<sup>63</sup> 502 Phil. 748 (2005).

<sup>64</sup> 505 Phil. 224 (2005).

<sup>65</sup> 562 Phil. 743 (2007).

<sup>66</sup> 568 Phil. 465 (2008).

<sup>67</sup> 591 Phil. 827 (2008).

<sup>68</sup> 601 Phil. 365 (2009).

<sup>69</sup> 640 Phil. 682 (2010).

<sup>70</sup> 665 Phil. 584 (2011).

<sup>71</sup> 709 Phil. 350 (2013).

<sup>72</sup> 749 Phil. 686 (2014).

<sup>73</sup> 771 Phil. 56 (2015).

<sup>74</sup> G.R. No. 225142, September 13, 2017, 839 SCRA 601.

<sup>75</sup> *Guagua National Colleges v. Court of Appeals*, G.R. No. 188492, August 28, 2018.

<sup>76</sup> *Id.*



Article 276 of the Labor Code should be understood as the period within which the party adversely affected by the ruling of the Voluntary Arbitrator or the Panel may file a motion for reconsideration.<sup>77</sup> This is in line with the pronouncement in *Teng v. Pahagac*<sup>78</sup> where the Court had clarified that the 10-day period set in Article 276 of the Labor Code gave the aggrieved parties the opportunity to file their motion for reconsideration, in keeping with the principle of exhaustion of administrative remedies. *Viz.:*

In the exercise of its power to promulgate implementing rules and regulations, an implementing agency, such as the Department of Labor, is restricted from going beyond the terms of the law it seeks to implement; it should neither modify nor improve the law. The agency formulating the rules and guidelines cannot exceed the statutory authority granted to it by the legislature.

By allowing a 10-day period, the obvious intent of Congress in amending Article 263 to Article 262-A is to provide an opportunity for the party adversely affected by the VA's decision to seek recourse via a motion for reconsideration or a petition for review under Rule 43 of the Rules of Court filed with the CA. Indeed, a motion for reconsideration is the more appropriate remedy in line with the doctrine of exhaustion of administrative remedies. For this reason, an appeal from administrative agencies to the CA *via* Rule 43 of the Rules of Court requires exhaustion of available remedies as a condition precedent to a petition under that Rule.

The requirement that administrative remedies be exhausted is based on the doctrine that in providing for a remedy before an administrative agency, every opportunity must be given to the agency to resolve the matter and to exhaust all opportunities for a resolution under the given remedy before bringing an action in, or resorting to, the courts of justice. Where Congress has not clearly required exhaustion, sound judicial discretion governs, guided by Congressional intent.

By disallowing reconsideration of the VA's decision, Section 7, Rule XIX of DO 40-03 and Section 7 of the 2005 Procedural Guidelines went directly against the legislative intent behind Article 262-A of the Labor Code. These rules deny the VA the chance to correct himself and compel the courts of justice to prematurely intervene with the action of an administrative agency entrusted with the adjudication of controversies coming under its special knowledge, training and specific field of expertise. In this era of clogged court dockets, the need for specialized administrative agencies with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or intricate questions of facts, subject to judicial review, is indispensable. In *Industrial Enterprises, Inc. v. Court of Appeals*, we ruled that relief must first be obtained in an administrative proceeding before a remedy will be supplied by the courts even though the matter is within the proper jurisdiction of a court.<sup>79</sup> (Citation omitted)

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<sup>77</sup> Id.

<sup>78</sup> 649 Phil. 460 (2010).

<sup>79</sup> Supra note 75.

The Court further clarified in *Guagua* that once the motion for reconsideration interposed had been resolved, the aggrieved party may now opt to appeal to the CA by way of a petition for review under Rule 43 of the Rules of Court. Pursuant to Section 4 of the said Rule, the aggrieved party has 15 days to file the same.<sup>80</sup>

There is no dispute that respondents received on February 26, 2015, a copy of the January 23, 2015 Resolution of the Panel which denied their motion for reconsideration, and filed their appeal to the CA on March 12, 2015. Given that their appeal had been filed 14 days from their receipt of the assailed Resolution of the Panel, respondents' appeal had clearly been filed within the reglementary period provided in Rule 43.

But petitioner contends that there is no motion for reconsideration which could have been considered as *duly filed* in this case that may be appealed to the CA as provided in Section 4,<sup>81</sup> Rule 43 of the Rules of Court since respondents' motion for reconsideration had not been filed directly with the Panel in violation of Section 2, Rule III of the Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings (VA Procedural Guidelines) which provides:

SEC. 2. *Where to file Pleadings.* – All pleadings relative to the voluntary arbitration case shall be filed directly with the chosen voluntary arbitrator at his designated business or professional office copy furnished the Regional Branch of the board having jurisdiction over the workplace of the complainant.

For the petitioner, in order for the filing of the motion for reconsideration to be proper, it must be filed at the Voluntary Arbitrators' private addresses or offices.<sup>82</sup> It is also for this reason why the petitioner posits that Section 1<sup>83</sup> of Rule 22 of the Rules of Court does not apply here because "*there is no rule or requirement that the offices of Voluntary Arbitrators should be closed on Saturdays, Sundays and Holidays.*"<sup>84</sup>

By no stretch of the imagination can Section 2, Rule III of the VA Procedural Guidelines can be given a meaning as that advanced by the petitioner. Nothing is better settled than that courts are not to give words a

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<sup>80</sup> Id.

<sup>81</sup> SEC. 4. *Period to appeal.* – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. x x x (Emphasis supplied)

<sup>82</sup> *Rollo*, pp. 28-29.

<sup>83</sup> SEC. 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

<sup>84</sup> *Rollo*, p. 28.

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meaning which would lead to absurd or unreasonable consequence.<sup>85</sup> A voluntary arbitrator by the nature of his or her functions acts in a quasi-judicial capacity.<sup>86</sup> Even assuming that the Voluntary Arbitrator or the Panel may not strictly be considered as a quasi-judicial agency, still both the Voluntary Arbitrator and the Panel are comprehended within the concept of a quasi-judicial instrumentality.<sup>87</sup> An “instrumentality” is anything used as a means or agency. Thus, the terms governmental “agency” or “instrumentality” are synonymous in the sense that either of them is a means by which a government acts, or by which a certain government act or function is performed.<sup>88</sup>

Since the Panel performs a state function pursuant to a governmental power delegated to them under the Labor Code provisions,<sup>89</sup> it therefore stands to reason that as a governmental instrumentality, the Panel holds office at the NCMB Office and the motion for reconsideration respondents filed thereat had been proper.<sup>90</sup> There is no reason to rule otherwise. The motion was received by the Panel, as in fact it immediately convened upon receipt thereof and acted on the same. While respondents’ motion for reconsideration was denied, the denial was not premised on the failure to *directly* file the motion with the Panel as the term is understood by the petitioner, but because the Panel found the motion to be lacking in merit and filed a day late.<sup>91</sup>

However, as ruled correctly by the CA, respondents motion for reconsideration of the Panel’s Decision had been timely filed. Section 3 of the VA Procedural Guidelines which provides:

SEC. 3. *Directory and Suppletory Application of the Guidelines and Rules of the Court.* – The rules governing the proceedings before a voluntary arbitrator shall be the subject of agreement among the parties to a labor dispute and their chosen arbitrator. In the absence of agreement on any or various aspects of the voluntary arbitration proceedings, the pertinent provisions of these Guidelines and the Revised Rules of Court shall apply by analogy or in a directory and suppletory character and effect.<sup>92</sup>

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<sup>85</sup> *Microsoft Corporation v. Manansala*, 772 Phil. 14, 22 (2015), citing *Automotive Parts & Equipment Company, Inc. v. Lingad*, 140 Phil. 580, 587 (1969).

<sup>86</sup> *Oceanic Bic Division (FFW) v. Romero*, 215 Phil. 340, 349 (1984).

<sup>87</sup> *Luzon Development Bank v. Association of Luzon Development Bank Employees*, 319 Phil. 262, 270 (1995).

<sup>88</sup> *Alcantara, Jr. v. Court of Appeals*, 435 Phil. 395, 404 (2002), citing *Luzon Development Bank v. Association of Luzon Development Bank Employees*, 319 Phil. 262, 270 (1995).

<sup>89</sup> *Id.*

<sup>90</sup> *CA rollo*, p. 146.

<sup>91</sup> *Rollo*, p. 162.

<sup>92</sup> *Id.* at 78.

clearly recognizes that the Rules of Court shall apply suppletorily or by analogy to arbitration proceedings. As such, Section 1, Rule 22 of the Rules of Court had been properly appreciated in determining the timeliness of the filing of respondents' motion for reconsideration. The said section provides:

SEC. 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

In this case, respondents have 10 days from February 5, 2015, the day they received a copy of the Panel's Decision, within which to file their motion for reconsideration. However, given that February 15, 2015, falls on a Sunday, respondents have until the next business day, pursuant to Section 1, Rule 22 of the Rules of Court, to file their motion for reconsideration. Hence, when respondents filed their motion on February 16, 2015, the same had been filed within the reglementary period.

*Respondents are not guilty of  
forum shopping*

Petitioner insists that respondents resorted to forum shopping when they filed before the Panel a *Manifestation with Opposition* after their motion for reconsideration was denied, and another motion entitled *Reiterative Motion* after they had already filed their petition for review with the CA and before the Panel can rule on its *Manifestation with Opposition*, as they actively sought the review and reversal of the ruling of the Panel with the latter and the CA simultaneously and successively.

Section 5, Rule 7 of the Rules of Court embodies the rule against forum shopping. It provides:

SEC. 5. *Certification against forum shopping.* – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be

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curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

Citing *City of Taguig v. City of Makati*,<sup>93</sup> the Court, in *Zamora v. Quinan, Jr.*,<sup>94</sup> has exhaustively discussed the concept of forum shopping in this wise:

In *City of Taguig v. City of Makati*, this Court was able to thoroughly discuss the concept of forum shopping through the past decisions of this Court, thus:

*Top Rate Construction & General Services, Inc. v. Paxton Development Corporation* explained that:

Forum shopping is committed by a party who institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action.

*First Philippine International Bank v. Court of Appeals* recounted that forum shopping originated as a concept in private international law:

To begin with, forum shopping originated as a concept in private international law, where nonresident litigants are given the option to choose the forum or place wherein to bring their suit for various reasons or excuses, including to secure procedural advantages, to annoy and harass the defendant, to avoid overcrowded dockets, or to select a more friendly venue. To combat these less than honorable excuses, the principle of *forum non conveniens* was developed whereby a court, in conflicts of law cases, may refuse impositions on its jurisdiction where it is not the most "convenient" or available forum and the parties are not precluded from seeking remedies elsewhere.

In this light, *Black's Law Dictionary* says that forum shopping "occurs when a party attempts to have his action tried in a particular court or jurisdiction where he feels he will receive the most favorable judgment or verdict." Hence, according to *Words and Phrases*, "a litigant is open to the charge of 'forum shopping' whenever he chooses a forum with slight connection to factual circumstances surrounding his suit, and litigants should be encouraged to

<sup>93</sup> 787 Phil. 367, 383-388 (2016).

<sup>94</sup> G.R. No. 216139, November 29, 2017, 847 SCRA 251, 256-262.

attempt to settle their differences without imposing undue expense and vexatious situations on the courts.”

Further, *Prubankers Association v. Prudential Bank and Trust Co.* recounted that:

The rule on forum shopping was first included in Section 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983, which imposed a sanction in this wise: “A violation of the rule shall constitute contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned.” Thereafter, the Court restated the rule in Revised Circular No. 28-91 and Administrative Circular No. 04-94. Ultimately, the rule was embodied in the 1997 amendments to the Rules of Court.

Presently, Rule 7, Section 5 of the 1997 Rules of Civil Procedure requires that a Certification against Forum Shopping be appended to every complaint or initiatory pleading asserting a claim for relief. x x x

x x x x

Though contained in the same provision of the 1997 Rules of Civil Procedure, the rule requiring the inclusion of a Certification against Forum Shopping is distinct from the rule against forum shopping. In *Korea Exchange Bank v. Gonzales*:

The general rule is that compliance with the certificate of forum shopping is separate from and independent of the avoidance of the act of forum shopping itself. Forum shopping is a ground for summary dismissal of both initiatory pleadings without prejudice to the taking of appropriate action against the counsel or party concerned.

*Top Rate Construction* discussed the rationale for the rule against forum shopping as follows:

It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets. What is critical is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and in the process creates the possibility of conflicting decisions being rendered by the different *fora* upon the same issues, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action.

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Jurisprudence has recognized that forum shopping can be committed in several ways:

(1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*). (Emphasis in the original)

Similarly, it has been recognized that forum shopping exists “where a party attempts to obtain a preliminary injunction in another court after failing to obtain the same from the original court.”

The test for determining forum shopping is settled. In *Yap v. Chua, et al.*:

To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another; otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.

For its part, *litis pendentia* “refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious.” For *litis pendentia* to exist, three (3) requisites must concur:

The requisites of *litis pendentia* are: (a) the identity of parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.

On the other hand, *res judicata* or prior judgment bars a subsequent case when the following requisites are satisfied:

(1) the former judgment is *final*; (2) it is rendered by a court having *jurisdiction* over the subject matter and the parties; (3) it is a judgment or an order *on the merits*; (4) there is – between the first and the second

actions – *identity* of parties, of subject matter, and of causes of action. (Emphasis in the original)

These settled tests notwithstanding:

Ultimately, what is truly important to consider in determining whether forum shopping exists or not is the vexation caused the courts and parties-litigant by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or to grant the same of substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different *fora* upon the same issue. (Citations omitted)

By filing with the Panel a second motion for reconsideration in the guise of a *Manifestation with Opposition*, and without awaiting the result thereof, appealing before the CA, and thereafter filing once again with the Panel a *Reiterative Motion*, petition avers that respondents committed forum shopping.

While the Court agrees with the petitioner that respondents' *Manifestation with Opposition* is in reality a second motion for reconsideration and its *Reiterative Motion* is another motion for reconsideration, as they both principally seek for the setting aside of the Decision of the Panel, there are good reasons which militate against the finding of forum shopping in this case.

Ultimately, the primary consideration in the determination if forum shopping is obtaining in a case is whether the filing of the actions would result in the very evil the rule on forum shopping seeks to prevent, that is, the rendition of conflicting decision by different tribunals.<sup>95</sup> The *Manifestation with Opposition*, being a second motion for reconsideration, and the *Reiterative Motion*, being technically a third motion for reconsideration, their filing thereof are prohibited under Section 2,<sup>96</sup> Rule 52 of the Rules of Civil Procedure. Being prohibited pleadings, they are regarded as mere scrap of paper that do not deserve any consideration and do not have any legal effect.<sup>97</sup> In addition, the *Reiterative Motion* is no longer within the Panel's competence to decide. It must be taken into account that when respondents filed the same, they had already filed their petition for review before the CA,<sup>98</sup> and the CA had in fact acted upon it by requiring the petitioner to file her comment thereon.<sup>99</sup> Hence, the Panel had lost its jurisdiction over the case at this stage, and therefore, it can no longer afford

<sup>95</sup> *De Lima v. City of Manila*, G.R. No. 222886. October 17, 2018.

<sup>96</sup> SEC. 2. Second motion for reconsideration. – No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.

<sup>97</sup> See *Heirs of Albano v. Spouses Ravanos*, 790 Phil. 557, 573 (2016); *Reyes v. People*, 764 Phil. 294, 305 (2015).

<sup>98</sup> CA *rollo*, p. 3.

<sup>99</sup> *Id.* at 526.



any kind of relief to the respondents. For these reasons, there can clearly be no forum shopping in this case.

*Suicide had been duly established*

A careful review of the records would show that suicide had been indubitably established. As aptly ruled by the CA:

The signed statements of Manuel's co-workers who were with him on the vessel on that fateful day allow Us to reconstruct with clarity the events leading to his death. Rather than being hazy, unequivocal, and non-committal, they were detailed, categorical, and certain, having been based on their actual experiences on the day Manuel died and with their personal interactions with the deceased. More importantly, We have found no fatal inconsistency that would warrant a different conclusion, that there was a cover-up of another cause of death, or that there was motive for *all of Manuel's co-workers* to lie about the death of their fellow seaman. A number of them even found him to be a nice and quiet person who prefers spending time alone.

Relevantly, judging from the noticeable variations in handwriting, writing styles, and the content of the narratives of Manuel's co-employees, We can only find their statements to have been executed voluntarily and willfully. Particularly even more credible are the detailed reports of the ship's Chief Officer and the Chief Engineer executed on 9 October 2013. The Chief Officer's Report was even signed and witnessed by crew members.

There is thus every reason to seriously consider and believe all their signed statements.

To elaborate, Manuel's co-workers commonly agreed that Manuel did not report to work on 7 October 2013; that he had shut himself inside the gymnasium; that having been informed [of] Manuel's behavior, the master of the ship called for a meeting to inform everyone of the developments; that while everyone was gathering, Manuel moved from the gymnasium into the hospital.

His co-workers then narrated that while Manuel was locked in the hospital room, some of them talked to him through the telephone, which included the Chief Engineer, Leo Odio, seafarers Richard Lamug, Deneb Jake Alcantara and Dennis Tinaja. These persons attested that Manuel did not sound calm or stable at all, but that he was fearful that somebody was going to kill him.

The seamen continued that Manuel's room remained locked, so that none of them could enter the same. On 8 October 2013, Manuel was offered food which he declined, after which he refused to talk to anyone. His companions knocked but received no reply; later in the day, following Manuel's continuous silence, the crew forced their way in the hospital room but found it unlocked.

As to Manuel's demise, We can infer from the statements of Rolando Leonardo, the Chief Officer, and the Chief Engineer the grim

circumstances thereof. These officers corroborate each other's statements that having discovered that Manuel was no longer in the room, they found the hospital restroom locked; with their co-workers, they then peered into a ventilation whereupon Engineer Ohio beheld Manuel "standing motionless with a small nylon rope tied on his neck and hanging to the Hat's hooks." Leonardo's words paint a starker picture, as he was able to describe that "Manuel's tongue is already outside of his mouth about 1 cm and his hands almost violet." The crew members then forced the door open and took Manuel's body down.

These employees' statements are corroborated by the meticulous Investigative Report immediately conducted by two lawyers when the ship managed to dock on October 18, 2013, by the Log Book Entries and email correspondence with the Medical Office, and the photographs of the crew taking down Manuel's body.

Lingering doubts are then dispelled by the final Post Mortem Report dated 7 December 2013, executed by one Dr. Rohan Ruwanpura, a Judicial Medical Officer in Sri Lanka, x x x.

The Report concluded that Manuel died from asphyxia due to hanging and informed that there were no injuries present upon Manuel's body.

*Significantly, all these – that Manuel had isolated himself, that no one else entered the rooms wherein he had concealed his person, that he had no other injuries, and that he was later found hanging – make foul play or any other conclusion implausible.<sup>100</sup>*

However, according to the petitioner, the documentary submissions of the respondents cannot be believed for they lacked probative value since they are mere photocopies. She also alludes to a certain police investigation report of the harbor authorities in Galle, Sri Lanka that proves the circumstances of the death of Manuel but which she claims respondents suppressed. Thus, for the petitioner, the CA erred when it sets aside the ruling of the Panel which found that no adequate evidence exists to prove that Manuel committed suicide.

The Court does not agree. In ruling that suicide had not been duly proved, the Panel relied on the "*consistent, coherent and spontaneous narration by [the petitioner] of her pleasant, joyful and very happy telephone conversation with the deceased x x x.*"<sup>101</sup> From her statement, the Panel was able to conclude that Manuel could not have possibly taken his own life since he and the petitioner did not have a dysfunctional family as in fact, they *had a very close, warm and loving relationship,<sup>102</sup> and Manuel was a very caring husband, filled with beautiful dreams and plans for his wife and siblings.<sup>103</sup>* Apart from these general statements, no proof whatsoever could be found on the records that would sufficiently establish

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<sup>100</sup> *Rollo*, pp. 81-83.

<sup>101</sup> *Id.* at 130.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

the veracity of the same. As correctly observed by the CA, the petitioner “could have supported her allegations with text messages and emails[,] or could have narrated her conversations with her husband and the frequency thereof to at least lend her version some credibility and weight. Absent these, [the court is] bound to uphold the well-settled rule that bare allegations are unworthy of belief.”<sup>104</sup>

It must be emphasized that technical rules of procedure are not binding in labor cases,<sup>105</sup> and that the quantum of proof required here is only substantial evidence, defined as “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.”<sup>106</sup> Thus, while it may be true that the documentary evidence adduced by respondents were photocopies, the Court cannot discount the fact that the statements of the crew members of the vessel as well as the autopsy report issued by the Sri Lankan authority coincide with the NBI autopsy report which concluded that the cause of death to be “consistent with asphyxia by ligature.” As such, the NBI autopsy report lends credence to and bolsters the account of the respondents that Manuel took his own life. In other words, the NBI autopsy report, autopsy report prepared by Dr. Ruwanpura and Investigation Report, taken together, substantially prove that Manuel’s death was due to his deliberate act of killing himself by committing suicide. It is of no moment that the NBI Autopsy Report did not categorically state that suicide or hanging was the cause of death. The fact remains that the same report found no evidence of foul play in the death of Manuel. Perforce, the Court must agree that death by suicide had been sufficiently proved.

*Petitioner is entitled to death benefits and reimbursement for transportation and burial expenses*

Crucial to the determination of petitioner’s entitlement to death benefits as well as her right to get reimbursement for transportation and burial expenses she incurred are Sections 18.1b, 21, 22, and 25 of the CBA. However, as observed by the CA, the copy of the CBA attached to the petition filed before it did not completely cite Section 21, while Section 25 was missing. As such, the CA adopted the parties’ citation of Section 25 and lifted from the copy of the CBA submitted to it the available portions of Section 21.<sup>107</sup> *Viz.:*

[SEC. 25.1] – If a seafarer dies through any cause whilst in the employment of the Company including death from natural causes and death occurring whilst traveling to and from the vessel, or as a result of marine or other similar peril, the Company shall pay the sums specified in

<sup>104</sup> Id. at 83-84.

<sup>105</sup> *Samahan ng Manggagawa sa Moldex Products, Inc. v. National Labor Relations Commission*, 381 Phil. 254, 264 (2000).

<sup>106</sup> *Doctor v. NII Enterprises*, G.R. No. 194001, November 22, 2017, 846 SCRA 53, 56.

<sup>107</sup> *Rollo*, pp. 85-86.

the attached Annex 4 (four) to a nominated beneficiary and to each dependent child up to a maximum of 4 (four) under the age of 18. The Company should also transport at its own expense the body to Seafarer's home where practical and at the families' request and pay the cost of burial expenses. If the seafarer shall leave no nominated beneficiary, the aforementioned sum shall be paid to the person empowered by law or otherwise to administer the estate of the Seafarer. For the purpose of this clause, a seafarer shall be regarded as "in employment of the company" for as long as the provision[s] of Article[s] 21 and 22 apply and provided the death is directly attributable to sickness or injury that caused the seafarer's employment to be terminated in accordance with Article 18.1b

x x x x

[SEC.] 21.2 A seafarer who is hospitalized abroad owing to sickness or injury shall be entitled to medical attention (including hospitalization) at the company's expense for as long as such attention is required or until the seafarer is repatriated to the port of engagement, whichever is the earlier.

[Section] 21.3 A seafarer repatriated to their port of engagement, unfit as a result of sickness or injury, shall be entitled to medical attention (including hospitalization) at the company's expenses:

- a. in case of sickness, for up to 130 days after repatriation, subject to the submission of satisfactory medical reports;
- b. in the case of injury, for so long as medical attention is required or until a medical determination is made in accordance with clause 24.2 concerning permanent disability.

[Section] 21.4 Proof of continued entitlement to medical attention shall be submission of satisfactory medical reports, endorsed, where necessary, by a company appointed doctor.<sup>108</sup>

On the other hand, [Section] 22 provides:

When a seafarer is landed at any port because of sickness or injury a pro rata payment of their basic wages plus guaranteed or, in the case of officers, fixed overtime, shall continue until [they] have been repatriated at the company's expense as specified in Article 19.

22.1 Thereafter the seafarer shall be entitled to sick pay at the rate equivalent to their basic wage while they remain sick up to a maximum rate of 130 days after repatriation.

22.2 However, in the event if incapacity due to an accident the basic wages shall be paid until the injured seafarer has been cured or until a medical

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<sup>108</sup> Id.

determination is made in accordance with clause 24.2 concerning permanent disability.

22.3 Proof of continued entitlement to sick pay shall be by submission of satisfactory medical reports, endorsed, where necessary, by a company appointed doctor. If a doctor appointed by or on behalf of the seafarer disagrees with the assessment, a third doctor may be nominated jointly between the company and the seafarer and the decision of this doctor shall be final and binding on both parties.

x x x x

18.1 The employment shall be terminated:

x x x x

- b. when signing off owing to sickness or injury, after medical examination in accordance with Article 21.

The cause of death of the seafarer is immaterial to the determination of petitioner's entitlement to the said benefits. It is clear from the express provision of Section 25.1 of the CBA that respondents hold themselves liable for death benefits for the death of the seafarer under their employ for *any cause*. Under Annex 4 of the CBA, the same shall be in the amount of US\$89,100.00.<sup>109</sup> Aside from death benefits, respondents also obligated themselves to pay the transportation expenses for the repatriation of the body of the deceased, as well as the burial expenses. In this case, the petitioner was able to show that the expenses she incurred for the repatriation of Manuel as well as his burial amounted to ₱162,080.00.<sup>110</sup> Sections 21 and 22 of the CBA did not limit the liability of the respondents to deaths that are directly attributable to sickness or injury, but rather widens its coverage to also include seafarers who died or signed off due to sickness or injury. Thus, the Court agrees with the following pronouncement of the CA:

Now brought to light and in consideration of Articles 21 and 22, the CBA, in defining "in employment of the company" actually expanded the coverage of Section 25.1. **Without this qualification**, "in the employment of the company" simply means those who are actively working in the employ of Athenian Ship Management, Inc. However, the "for the purpose" clause "in employment of the company" **widens its coverage to also include** (a) employees who died as a result of sickness or injury during their employment as provided under Articles 21 and 22 of the CBA; and (b) employees who had to sign off due to sickness or injury under Articles 21 and 22 of the agreement.

Otherwise stated, rather than limiting the scope of coverage of Section 25.1, the last sentence of its first paragraph widens it. It never

<sup>109</sup> CA rollo, p. 371.

<sup>110</sup> Id. at 380-387.

affected or narrowed the phrase “any cause” in Section 25.1. To further make it simpler, the part of Section 25.1 pertaining to “any cause” responds to the question, “what causes of deaths are covered?”, while “in the employment” answers to the query, “given that all causes of death are covered, *who else* are considered employed?”<sup>111</sup>

Respondents cannot also validly argue that the POEA-SEC takes precedence over the terms of the CBA, in that, death must be work-related in order to be compensable. The Court has already settled that, in the event that the clauses in the CBA provide for greater benefits to the seafarer, the same must prevail over the standard terms and benefits formulated by the POEA in its Standard Employment Contract inasmuch as a contract of labor is so impressed with public interest that the more beneficial conditions must be endeavored in favor of the laborer. This is in keeping with the avowed policy of the State to give maximum aid and full protection to labor as enshrined in Article XIII of the 1987 Constitution.<sup>112</sup> Thus, the CA ruled correctly when it held that petitioner is entitled to death benefits, transportation expenses and burial expenses.

*Petitioner is not entitled to insurance benefits under R.A. No. 10022*

Section 23 of R.A. No. 10022 provides for the compulsory insurance coverage of migrant workers. It reads:

Section 23. A New Section 37-A of Republic Act No. 8042, as amended, is hereby added to read as follows:

SEC. 37-A. *Compulsory Insurance Coverage of Agency Hired workers.* – In addition to the performance bond to be filed by the recruitment/manning agency under Section 10, each migrant worker deployed by a recruitment/manning agency shall be covered by a compulsory life insurance policy which shall be secured at no cost to the said worker. Such insurance policy shall be effective for the duration of the migrant worker’s employment contract and shall cover, at the minimum:

- (a) Accidental death, with at least fifteen thousand United States dollars (US\$15,000.00) survivor’s benefit payable to the migrant worker’s beneficiaries;

Without question, respondents become liable for the payment of the compulsory life insurance benefit of US\$15,000.00 only when the employee died of an accidental death. Inasmuch as the Court had already ruled that

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<sup>111</sup> *Rollo*, pp. 89-90.

<sup>112</sup> *Maersk-Filipinas Crewing, Inc. v. Malicse*, G.R. Nos. 200576 & 200626, November 20, 2017, 845 SCRA 69, 80 citing *Legal Heirs of Deauna v. Fil-Star Maritime Corporation*, 688 Phil. 582, 601 (2012).

Manuel committed suicide, the CA correctly deleted the award of US\$15,000.00 by way of life insurance in favor of the petitioner.

Even assuming that respondents failed to procure a life insurance coverage for Manuel as mandated by R.A. No. 10022, such failure does not merit the automatic award of the aforementioned sum to the petitioner as the same pertains to the minimum of the life insurance policy coverage to be paid by the insurance company only to qualified beneficiaries and for such causes as specified therein, and is not a penalty or fine to be paid by the manning agency.

*Petitioner is entitled to overtime pay, owner's bonus, and unpaid leave pay plus daily allowance pay*

Articles 6<sup>113</sup> and 11<sup>114</sup> of the CBA provide for the guidelines to a seafarer's entitlement to overtime pay as well as to leave benefits. The articles state:

**Overtime**  
**[Sec.] 6**

6.1 Any hours of duty in excess of the 8 (eight) shall be paid by overtime, the hourly overtime rate shall be 1.25 the basic hourly rate calculated by reference to the basic wage for the category concerned and the weekly working hours (Annex 2).

6.2 At least 103 (one hundred three) hours guaranteed overtime shall be paid monthly to each seafarer.

6.3 Overtime shall be recorded individually and in duplicate either by the Master or Head of the Department.

6.4 Such record shall be handed to the seafarer for approval every month or at shorter intervals. Both copies must be signed by the Master and/or Head of the department as well as the seafarer, after which the record is final. One copy shall be handed over the seafarer. x x x

6.5 If no overtime records are kept as required in 6.3 and 6.4 above, the seafarer shall be paid monthly a lump sum for overtime worked calculated at **160 hours** at the hourly overtime rate without prejudice to any further claim for payment for overtime hours worked in excess of this figure. x x x

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<sup>113</sup> CA rollo, pp. 332-333.

<sup>114</sup> Id. at 333.

**Leave**  
**[Sec.] 11**

11.1 Each seafarer shall, on the termination of employment for whatever reason, be entitled to payment of **7 days' leave** for each completed month of service and pro rata for a shorter period.

11.2 Payment for leave shall be at the rate of pay applicable at the time of termination plus a daily allowance as specified in ANNEX 4.  
x x x

Under 11.2 of the CBA, aside from leave pay, the seafarer shall also be entitled to a daily allowance as specified in Annex 4 thereof. Annex 4<sup>115</sup> of the CBA provides:

ANNEX 4  
Schedule of Cash Benefits

x x x x

Article 11  
Leave:

Daily Allowance whilst on paid leave: US\$ 18

The terms and conditions of Manuel's employment contract<sup>116</sup> mentioned above would readily show that respondents indeed committed to give him guaranteed overtime pay for 103 hours; leave pay of seven days for each completed month in the sum of US\$174.00 per month plus daily allowance/subsistence allowance of US\$18 while on paid leave or a total of US\$126.00 per month, as well as owner's bonus in the amount of \$100.00 a month.

With respect to the guaranteed overtime pay, considering that no overtime records were presented by the respondents, following Article 6.5 of the CBA, the same shall be pegged at 160 hours per month at the rate of 1.25 of Manuel's basic hourly rate.

At this juncture, the Court must note that the aforesaid Articles 6 and 11 are nowhere to be found in the copy of the CBA that is attached to the records of this case. Be that as it may, the Court cannot simply disregard the same. It bears stressing that respondents were fully apprised of these claims at the outset since these claims were already included and fully discussed by the petitioner in her Position Paper.<sup>117</sup> Respondents, in fact, responded thereto by filing their Reply (To Complainant's Position Paper)<sup>118</sup> and their

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<sup>115</sup> Id. at 371.

<sup>116</sup> Id. at 349.

<sup>117</sup> Id. at 324-347.

<sup>118</sup> Id. at 406-421.



Rejoinder.<sup>119</sup> In the said pleadings, respondents never denied that the CBA as well as Manuel's Employment Contract provided for these benefits. Their defense is that they are no longer liable for these benefits since they had already been paid. As proof, they adduced the following pieces of evidence: (a) acknowledgement receipt for the payment of wages in the amount of US\$670.30, duly signed by the petitioner;<sup>120</sup> (b) check voucher for the said amount;<sup>121</sup> (c) Wages Account<sup>122</sup> for the period covering October 1, 2013 to October 8, 2013 itemizing the benefits included in the US\$670.30 payment as follows: (1) basic wage; (2) fixed overtime; (3) owner's bonus; (4) leave pay; and (5) EWA; and (d) proof of remittance of allotment to Manuel's bank account.<sup>123</sup>

Contrary to the claim of respondents, the evidence they presented only prove payment of the aforementioned benefits from October 1 to October 8, 2013. The remittance of allotment to Manuel's bank account they made on August 6, 2013, September 6, 2013 and October 1, 2013 do not establish payment of the subject benefits as respondents failed to show what these payments had been for. If these allotments were for the guaranteed overtime pay, leave pay plus daily allowance and owner's bonus, respondents could have easily presented a similar Wages Account like the one they presented for the October 1 to 8, 2013 payment for the subject benefits considering that the Wages Account form appears to be a standard form issued by the respondents to its employees whenever they release payments to them.

For these reasons, the CA erred in deleting the awards for overtime pay, leave pay, daily allowance/subsistence allowance and owner's bonus. However, considering that Manuel commenced working for the respondents on June 25, 2013, and the petitioner had already received the said benefits for the period covering October 1 to October 8, 2013, respondents shall be liable for overtime pay, leave pay, daily allowance/subsistence allowance and owner's bonus for 3 months and 5 days only, instead of four months.

*Petitioner is not entitled to uncollected: salary, moral damages, exemplary damages and attorney's fee.*

As discussed above, since respondents were able to duly prove, and the petitioner had already received the amount of US\$670.03 representing Manuel's uncollected salary, the CA correctly deleted the same.

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<sup>119</sup> Id. at 469-480.

<sup>120</sup> Id. at 168.

<sup>121</sup> Id. at 169.

<sup>122</sup> Id. at 170.

<sup>123</sup> Id. at 171-176.

Petitioner is also not entitled to moral damages, exemplary damages and attorney's fees as these forms of indemnity may only be imposed on a concrete showing of bad faith or malice on the part of the respondents.<sup>124</sup> In this case, the refusal of the respondents to pay the benefits being claimed by the petitioner, and the delay in the eventual release of the last salary of Manuel, did not arise out of bad faith, but brought about by their firm belief of petitioner's lack of entitlement thereto and the merits of their cause. The mere failure of the respondents to furnish the petitioner with a copy of the CBA does not establish bad faith. It must be taken into account that the terms of the employment contract of Manuel had been faithful to the benefits spelled out in the said CBA, thereby negating petitioner's claim that respondents intended to conceal and mislead her into thinking that no CBA applied to Manuel's employment. Petitioner also failed to substantiate her claim that there indeed had been a police investigation report proving that Manuel had been killed which respondents suppressed. As with the said police investigation report, there is also no showing that respondents did not procure the mandatory life insurance policy for Manuel. No proof was also shown to support petitioner's claim that respondents did not extend any form of assistance in the repatriation of Manuel or that they berated her when she sought the assistance of the government for the said repatriation. Petitioner's contention that respondents' decision to bring the remains of her husband to Sri Lanka, instead of Dammam, Saudi Arabia had been sudden and tainted with bad faith is belied by her very own written consent where she agreed that the autopsy of the remains of the deceased shall be performed by the authorities in Sri Lanka.<sup>125</sup> For these reasons, the CA had been correct in deleting the said awards.

*The monetary benefits awarded to the petitioner shall earn legal interest at the rate of 6% per annum from the date of the finality of the Decision until fully paid*

The case of *Lara's Gifts & Décor, Inc. v. Midtown Industrial Sales, Inc.*<sup>126</sup> clarified the correct rate of imposable interest, thus:

To summarize, the guidelines on the imposition of interest as provided in *Eastern Shipping Lines* and *Nacar* are further modified for clarity and uniformity, as follows:

With regard to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

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<sup>124</sup> *Maersk-Filipinas Crewing, Inc. v. Malicse*, G.R. Nos. 200576 & 200626, November 20, 2017; supra note 112, at 85.

<sup>125</sup> *CA rollo*, p. 207.

<sup>126</sup> G.R. No. 225433, August 28, 2019.

1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, goods, credits or judgments, the interest due shall be that which is stipulated by the parties in writing, provided it is not excessive and unconscionable, which, in the absence of a stipulated reckoning date, shall be computed from default, *i.e.*, from extrajudicial or judicial demand in accordance with Article 1169 of the Civil Code, UNTIL FULL PAYMENT, without compounding any interest unless compounded interest is expressly stipulated by the parties, by law or regulation. Interest due on the principal amount accruing as of judicial demand shall SEPARATELY earn legal interest at the prevailing rate prescribed by the *Bangko Sentral ng Pilipinas*, from the time of judicial demand UNTIL FULL PAYMENT.

2. In the absence of stipulated interest, in a loan or forbearance of money, goods, credits or judgments, the rate of interest on the principal amount shall be the prevailing legal interest prescribed by the *Bangko Sentral ng Pilipinas*, which shall be computed from default, *i.e.*, from extrajudicial or judicial demand in accordance with Article 1169 of the Civil Code, UNTIL FULL PAYMENT, without compounding any interest unless compounded interest is expressly stipulated by law or regulation. Interest due on the principal amount accruing as of judicial demand shall SEPARATELY earn legal interest at the prevailing rate prescribed by the *Bangko Sentral ng Pilipinas*, from the time of judicial demand UNTIL FULL PAYMENT.

3. When the obligation, not constituting a loan or forbearance of money, goods, credits or judgments, is breached, an interest on the amount of damages awarded may be imposed *in the discretion of the court* at the prevailing legal interest prescribed by the *Bangko Sentral ng Pilipinas*, pursuant to Article 2210 and 2011 of the Civil Code. No interest, however, shall be adjudged on unliquidated claims or damages until the demand can be established with reasonable certainty. Accordingly, where the amount of the claim or damages is established with reasonable certainty, the prevailing legal interest shall begin to run from the time the claim is made extrajudicially or judicially (Art. 1169, Civil Code) UNTIL FULL PAYMENT, but when such certainty cannot be so reasonably established at the time the demand was made, the interest shall begin to run only from the date of the judgment of the trial court (at which time the quantification of damages may be deemed to have been reasonably ascertained) UNTIL FULL PAYMENT. The actual base for the computation of the interest shall, in any case, be on the principal amount finally adjudged, without compounding any interest unless compounded interest is expressly stipulated by law or regulation. (Emphases in the original; citations omitted)

Based on the prevailing jurisprudence, the actual base for the computation of 6% per annum legal interest (the prevailing legal interest prescribed under Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013)<sup>127</sup> of the total monetary awards shall be the amount finally adjudged, that is from the finality of this judgment until their full satisfaction.<sup>128</sup>


**WHEREFORE**, premises considered, the petition is **PARTIALLY GRANTED**. The assailed October 13, 2015 Decision and the April 12, 2016 Resolution of the Court of Appeals in CA-G.R. SP. No. 139455 are **AFFIRMED with MODIFICATION**, in that aside from the US\$89,100.00 death benefits and reimbursement for transportation and burial expenses in the amount of ₱162,080.00, respondents are also adjudged liable to pay the petitioner the following: (a) guaranteed overtime pay for 160 hours a month at the rate of 1.25 of Manuel's basic hourly rate for three (3) months and five days; (b) leave pay of (7) seven days for each completed month in the sum of US\$174.00 per month for three (3) months and five (5) days; (c) daily allowance/subsistence allowance of US\$18.00 while on paid leave or a total of US\$126.00 per month for three (3) months and five (5) days; and (d) owner's bonus of US\$100.00 a month for three (3) months and five (5) days. The monetary awards granted shall earn legal interest at the rate of 6% per annum from the date of the finality of this Decision until fully paid.

The case is **REMANDED** to the Panel of Voluntary Arbitrators for the proper computation of the monetary benefits awarded.

**SO ORDERED.**

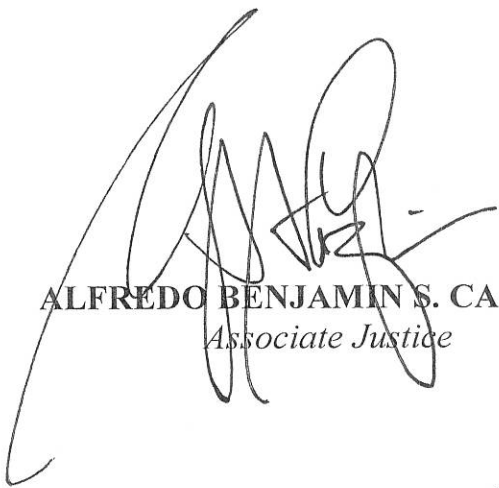
  
**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**

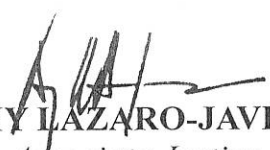
  
**DIOSDADO M. PERALTA**  
*Chief Justice*

<sup>127</sup> Id.

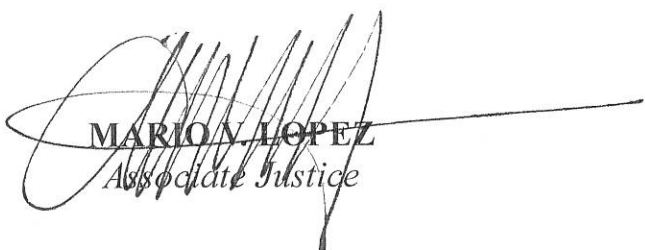
<sup>128</sup> See *Transglobal Maritime Agency, Inc. v. Chua, Jr.*, G.R. No. 222430, August 30, 2017.



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



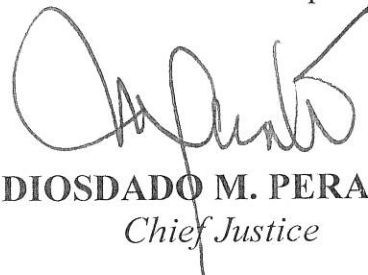
**AMY LAZARO-JAVIER**  
*Associate Justice*



**MARIO N. LOPEZ**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.



**DIOSDADO M. PERALTA**  
*Chief Justice*

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