



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**FAIR SHIPPING CORP., and/or
KOHYU MARINE CO., LTD.,**

Petitioners,

- versus -

JOSELITO T. MEDEL,

Respondent.

G.R. No. 177907

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

Promulgated:

29 AUG 2012

X-----X

DECISION

LEONARDO – DE CASTRO, J.:

In this Petition for Review on *Certiorari*¹ under Rule 45, the Court is asked to reverse and set aside the Decision² and Resolution³ of the Court of Appeals in CA-G.R. SP No. 75893 dated November 20, 2006 and May 15, 2007, respectively. In the assailed Decision, the Court of Appeals held that the Second Division of the National Labor Relations Commission (NLRC) committed grave abuse of discretion amounting to lack or excess of

¹ Rollo, pp. 9-36.

² Id. at 38-61; penned by Associate Justice Lucenito N. Tagle with Associate Justices Roberto A. Barrios and Mario L. Guariña III, concurring.

³ Id. at 63-65; penned by Associate Justice Lucenito N. Tagle with Associate Justices Remedios Salazar Fernando and Mario L. Guariña III, concurring.

jurisdiction in issuing the Decision⁴ dated July 31, 2002 in NLRC OFW (M) 99-09-01462 (CA No. 029790-01). In the assailed resolution, the Court of Appeals denied for lack of merit the Motion for Reconsideration⁵ of herein petitioners Fair Shipping Corporation and Kohyu Marine Co., Ltd. and the Partial Motion for Reconsideration filed by herein respondent Joselito T. Medel.

From the records of the case, we culled the following material facts:

On November 23, 1998, Medel was hired by Fair Shipping Corporation, for and in behalf of its foreign principal Kohyu Marine Co., Ltd. Under the Contract of Employment⁶ signed by Medel, the latter was employed as an Able Seaman of the vessel M/V Optima for a period of 12 months with a basic monthly salary of US\$335.00, plus fixed overtime pay of US\$136.00 and vacation leave with pay of two and a half (2.5) days per month. The contract expressly stated that the terms and conditions of the revised Employment Contract governing the employment of all seafarers, as approved per Department Order No. 33 and Memorandum Circular No. 55, both series of 1996 [the 1996 POEA SEC],⁷ were to be strictly and faithfully observed by the parties.

Medel boarded the M/V Optima on November 27, 1998 and commenced the performance of his duties therein.⁸ On March 1, 1999, while the M/V Optima was docked at the Port of Vungtao in Ho Chi Minh City, Vietnam, Medel figured in an unfortunate accident. During the

⁴ Id. at 184-194; penned by Presiding Commissioner Raul T. Aquino with Commissioners Victoriano R. Calaycay and Angelita A. Gacutan, concurring.

⁵ Id. at 276-293.

⁶ Id. at 82.

⁷ The Philippine Overseas Employment Administration (POEA) Standard Employment Contract (SEC). The said POEA SEC has been revised by the Department of Labor and Employment (DOLE) Order No. 4, Series of 2000 (the 2000 POEA SEC).

⁸ *Rollo*, p. 185.

conduct of emergency drills aboard the vessel, one of Medel's co-workers lost control of the manual handle of a lifeboat, causing the same to turn uncontrollably; and it struck Medel in the forehead. Medel was given first aid treatment and immediately brought to the Choray Hospital in Ho Chi Minh City on said date.⁹

After undergoing surgical procedure to treat his fractured skull, Medel was discharged from the hospital on March 13, 1999. Medel's Discharge Summary disclosed that he underwent the following treatment:

1/ Surgical procedure: An open wound, 5 cm long, in the left frontal region. Extend [of] the wound [up] to 10 cm. The underlying frontal bone is found completely shattered. The frontal sinus is broken. The fracture in the frontal bone extends beyond the midline to the right parietal bone. The fractured skull is depressed 1 cm. Frontal sinus is cleansed, its mucosa is cauterized. A Gelfoam is packed into the frontal sinus. The broken fragments of the frontal bone are removed. The remaining depressed frontal bone is elevated to normal position. The fractured fronto-parietal bone is gouged out. A rubber tube drain is placed into the wound. Skin is closed in 2 layers.

Post-op is uneventful. Left palpebral ptosis and dimmed vision are recorded. Eye examination shows scattered retinal hemorrhages. Surgical incision heals well. Left palpebral ptosis recovers nearly completely. Retinal hemorrhage is markedly reduced, however, left vision is not yet fully recovered.¹⁰

Medel's attending physician then recommended his "[r]epatriation for further treatment (at the patient's request)" and that he should "[s]ee a neurosurgeon and an ophthalmologist in the Philippines."¹¹

Medel was repatriated to the Philippines on March 13, 1999 and was admitted to the Metropolitan Hospital on the said date. In a letter dated March 16, 1999, Dr. Robert D. Lim, the company-designated physician and Medical Coordinator of the Metropolitan Hospital, informed petitioners that

⁹ Id. at 85.

¹⁰ Id. at 86.

¹¹ Id.

Medel was seen by a neurologist, an ENT specialist, and an ophthalmologist.¹² Medel subsequently underwent a cranial CT scan and an ultrasound on his left eye, which was also injured during the accident.¹³ On April 22, 1999, a posterior vitrectomy was performed on Medel's left eye;¹⁴ and on July 14 and July 19, 1999, Medel's left eye was likewise subjected to two sessions of argon laser retinopexy.¹⁵ Dr. Lim then reported to petitioners that Medel's condition was re-evaluated on July 22, 1999 and, after consulting with the neurosurgeon at the Metropolitan Hospital, Medel was advised to undergo cranioplasty to treat the bony defect in his skull.¹⁶ On October 20, 1999, Medel was admitted to the hospital and underwent the said surgical procedure.¹⁷ On October 25, 1999, Dr. Daniel L. Ong, a neurologist at the Metropolitan Hospital, sent a report to Dr. Lim stating thus:

DEAR DR. LIM,

RE: DELAY OF CRANIOPLASTY OF LEFT FRONTAL SINUS OPEN
DEPRESSED FRACTURE; S/P POST-CRANIOTOMY (MR.
JOSELITO MEDEL)

THE REASON FOR THE DELAY IS DUE TO THE POOR SKIN
CONDITION AND THE POTENTIAL INFARCTION IN THIS
PARTICULAR AREA IF DONE TOO QUICKLY. THIS IS ALSO THE
REASON FOR PROLONGED AN[T]IBIOTIC COVERAGE AS PART
OF THE INITIAL PREPARATORY TREATMENT, USUALLY SIX
MONTHS WAIT BEFORE A CRANIOPLASTY IN THIS CASE.

I THINK PATIENT CAN RESUME SEA DUTIES WITHOUT
ANY DISABILITY.

THANK YOU.

(SIGNED)
DANIEL ONG, M.D.¹⁸

¹² Id. at 87.
¹³ Id. at 88.
¹⁴ Id. at 89.
¹⁵ Id. at 91-92.
¹⁶ Id. at 93.
¹⁷ Id. at 95.
¹⁸ Id. at 96.

Months after, in a letter dated February 15, 2000, Dr. Lim informed petitioners of Medel's condition, the relevant portion of which states:

RE : MR. JOSELITO MEDEL
MV OPTIMA
FAIR SHIP. CORP.

: PATIENT WAS SEEN AND RE-EVALUATED FEBRUARY 11, 2000.

: HE WAS SEEN BY OUR NEUROLOGIST AND NEURO-SURGEON.
HIS WOUND IS HEALED. HIS PERIMETRY RESULT WAS GIVEN
TO OUR NEUROLOGIST AND HE OPINES THAT PATIENT IS
NOW FIT TO WORK.

: HE WAS PRONOUNCED FIT TO RESUME SEA DUTIES AS OF
FEBRUARY 11, 2000.

: HOWEVER, THE PATIENT REFUSED TO SIGN HIS CERTIFICATE
OF FITNESS TO WORK.

: FOR YOUR PERUSAL.¹⁹

In the interregnum, before Medel actually underwent the procedure of cranioplasty, he claimed from petitioners the payment of permanent total disability benefits. Petitioners, however, refused to grant the same.²⁰ Consequently, on September 7, 1999, Medel filed before the Arbitration Branch of the NLRC a complaint²¹ against petitioners for disability benefits in the amount of US\$60,000.00, medical expenses, loss of earning capacity, damages and attorney's fees. The case was docketed as NLRC OFW (M) No. 99-09-01462. Medel claimed entitlement to permanent total disability benefits as more than 120 days had passed since he was repatriated for medical treatment but he was yet to be declared fit to work or the degree of his disability determined by the company-designated physician.

¹⁹ Id. at 121.

²⁰ Id. at 219.

²¹ Id. at 67-68.

On July 30, 2001, the Labor Arbiter issued a Decision²² in favor of Medel, holding that:

Upon the records, this Office is more than convinced that [Medel] is entitled to a [sic] disability benefits which is equivalent to 120% of US\$50,000.00 or US\$60,000.00 or its peso equivalent at the [e]xchange rate prevailing at the time of its payment.

As held by [petitioners] to be an undisputed fact, [Medel] suffered injury that was sustained by him during the effectivity of his shipboard employment contract and while engaged in the performance of his contracted duties.

Upon [Medel's] arrival, [petitioners] referred [him] to the company designated physician at Metropolitan Hospital on March 13, 1999, with impression, "Head Injury with Open Fracture of the Left Frontal Bone: S/P Open Reduction & Internal Fixation of Frontal Bone and Sinus; Cerebral Concussion; Vitreous Hemorrhage, left eye secondary to trauma." Suggested procedure was Ultrasound of the left eye. Subsequently, [Medel] was referred to a neuro-surgeon. His cranial CT scan showed "Minimal Pneumocephalus; Inferior Frontal Region; Comminuted Fracture, Frontal Bone; Post craniotomy Defect, Left Frontal Bone; changed within the Sphenoid which may relate to previous hemorrhage and Negative for Mass effect nor Intracranial Intracerebral Hemorrhage." His ultrasound of the left eye confirmed the presence of Vitreous Hemorrhage. Suggestion was Vitrectomy, Left eye. On June 28, 1999, [Medel] was re-evaluated, however, the ophthalmologist [s]uggested Argon Laser Retinopexy since he was noted to have Wrinkled Macula and Areas of weakness in the Retina secondary to Trauma. He was then seen July 14, 1999 when he underwent first session of Argon Laser Retinopexy and for re-evaluation on July 19, 1999 for second session. On July 23, 1999, he was seen by the neurosurgeon who advised him [to undergo the procedure of] cranioplasty to cover the bony defect of the skull to be done [i]n October 1999.

With the foregoing, we are persuaded by [Medel's] arguments that the claim for disability benefits is not solely premised on the extent of his injury but also on the consequences of the same to his profession as a seafarer which was his only means of livelihood. We could imagine the nature of these undertakings of seafarers where manual and strenuous activities are part of the days work. Moreso, with the position of [Medel] being an ordinary seaman which primarily comprises the vessel manpower and labor. Thus, to us, we are convinced that [Medel] is entitled to the benefits under Section 20 B of the POEA Memorandum Circular No. 55 and Section 30 A thereof which was deemed incorporated to his POEA approved employment contract.

²²

Id. at 129-135.

Further, the claim for attorney's fees is justified considering the above discussed circumstances which in effect has constrained [Medel] to hire the services of a legal counsel to protect his interest.²³

The Labor Arbiter decreed as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding [petitioners] jointly and severally liable to:

- 1) To pay [Medel] the amount of US\$60,000.00 or its peso equivalent at the prevailing exchange rate at the time of payment, representing permanent and total disability; [and]
- 2) To pay [Medel] the equivalent amount of ten (10%) percent of the total judgment award, as and for attorney's fees;

All other claims are hereby dismissed for lack of merit.²⁴

Petitioners filed a Memorandum of Appeal²⁵ before the NLRC, which was docketed as NLRC CA No. 029790-01. In their appeal, petitioners alleged that the disability compensation granted to Medel was improper because the same was not based on a disability assessment issued by the company-designated physician. As Medel was not disabled, they argued that he was not entitled to any compensation, including attorney's fees.

In its Decision dated July 31, 2002, the Second Division of the NLRC found merit in the petitioners' appeal and disposed of the same thus:

WHEREFORE, the appealed decision is SET ASIDE and a new one entered by ordering [Medel's] claim DISMISSED for lack of merit.²⁶

The NLRC ruled that under Section 20(B)(2) of the 1996 POEA SEC, the disability of a seafarer should be assessed by the company-designated physician. The employer shall be liable for the seafarer's medical treatment

²³ Id. at 133-135.

²⁴ Id. at 135.

²⁵ Id. at 136-172.

²⁶ Id. at 193.

until the latter is declared fit to work or his disability is assessed. Should the seafarer recover, the NLRC posited that the contractual obligation of the employer should cease. However, if the seafarer is found to be incapacitated, the employer's contractual obligation shall terminate only after the latter pays the seafarer's disability benefits. Furthermore, the NLRC stated that the 120 days referred to in Section 20(B)(3) of the POEA SEC²⁷ pertained to "the maximum number of days to which a seafarer who signed-off from the vessel for medical treatment is entitled to sickness wages."²⁸ The NLRC ruled that there was no evidence to prove that Medel was disabled, other than his contention that his treatment had gone beyond 120 days. Medel was even declared fit to resume sea duty. Thus, the NLRC held that Medel had no basis for his claim of disability benefits.

Medel filed a Motion for Reconsideration²⁹ of the above NLRC Decision but the same was denied in the NLRC Resolution³⁰ dated November 21, 2002.

Medel, thus, filed a Petition for *Certiorari*³¹ before the Court of Appeals, which sought the reversal of the NLRC rulings for having been allegedly issued with grave abuse of discretion amounting to lack or excess of jurisdiction. Medel's petition was docketed as CA-G.R. SP No. 75893.

²⁷

SECTION 20. COMPENSATION AND BENEFITS

x x x x

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

x x x x

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

²⁸

Rollo, p. 192.

²⁹

Id. at 195-205.

³⁰

Id. at 207-208.

³¹

Id. at 209-242.

On November 20, 2006, the Court of Appeals rendered the assailed decision, the dispositive portion of which provides:

WHEREFORE, in view of the foregoing, the NLRC Decision dated July 31, 2002 is hereby **REVERSED and SET ASIDE**. The decision of the Labor Arbiter dated July 30, 2001 is hereby **REINSTATED** with respect only to the award of disability benefits. The award of attorney's fees in the Labor Arbiter's decision is deleted.³²

Citing the Court's ruling in *Crystal Shipping, Inc. v. Natividad*,³³ the Court of Appeals stated that an award of permanent total disability benefits is proper when an employee is unable to perform his customary work for more than 120 days. Since Medel's accident rendered him incapable of performing his usual or customary work for more than 120 days, the Court of Appeals concluded that he was entitled to permanent total disability benefits. The Court of Appeals also refused to accept the veracity of the medical certificate attesting to Medel's fitness to resume sea duties as the same was issued by Dr. Lim, a physician who the appellate court deemed as not privy to Medel's condition. The Court of Appeals did not, however, heed Medel's claims for moral and exemplary damages since petitioners neither abandoned him during his period of disability, nor were they negligent in providing for his medical treatment. Lastly, the Court of Appeals deleted the award of attorney's fees.

Medel filed a Partial Motion for Reconsideration³⁴ of the above decision as regards the award of attorney's fees. On the other hand, petitioners filed their Motion for Reconsideration,³⁵ arguing that the provisions alone of the POEA SEC should apply in determining what

³² Id. at 60.

³³ 510 Phil. 332, 340-341 (2005).

³⁴ *Rollo*, pp. 270-275.

³⁵ Id. at 276-293.

constitutes permanent total disability, to the exclusion of the Labor Code provisions on disability compensation. In the assailed Resolution dated May 15, 2007, the Court of Appeals denied for lack of merit the respective motions of the parties.

Hence, petitioners instituted this petition, citing the following issues:

I.

WHETHER OR NOT THE DISABILITY BENEFITS PROVIDED UNDER THE POEA CONTRACT ARE SEPARATE AND DISTINCT FROM THOSE PROVIDED UNDER THE LABOR CODE.

II.

WHETHER OR NOT UNDER THE POEA CONTRACT THE INABILITY TO WORK FOR MORE THAN ONE HUNDRED TWENTY (120) DAYS IS TOTAL AND PERMANENT DISABILITY.

III.

WHETHER OR NOT, IN DISABILITY COMPENSATION CLAIMS, THE CONDITIONS PRECEDENT REQUIRED UNDER THE POEA CONTRACT SHOULD BE LIGHTLY DISREGARDED ON MERE APPEAL TO THE LIBERALITY OF LAWS TOWARDS FILIPINO SEAFARERS.³⁶

Petitioners argue that Medel's claims for disability benefits should be resolved by applying exclusively the provisions of the POEA SEC and the relevant jurisprudence interpreting the same, without resorting to the provisions of the Labor Code on disability benefits. Moreover, petitioners aver that the 1996 POEA SEC does not state that the mere lapse of 120 days automatically makes a seafarer permanently and totally disabled. In spite of the lapse of 120 days, petitioners posit that the entitlement to disability benefits would only come as a matter of course after the degree of the seafarer's disability had been established, which assessment shall be made after the seafarer no longer responds to any medication or treatment. Thus, a

³⁶

Id. at 389.

seafarer is entitled to receive permanent total disability benefits only if the seafarer was declared by the company-designated physician to be suffering from a Grade 1 impediment.

In the present case, petitioners insist that there was no disability assessment from the company-designated physician. On the contrary, Medel was even assessed to be physically fit to resume work. Petitioners then faulted the Court of Appeals for rejecting the certification of Dr. Ong that Medel was fit to resume sea duties. Petitioners insist that said doctor had personal knowledge of Medel's condition, as he was a member of a team of physicians tasked to treat Medel. Petitioners maintain that Medel did not present evidence to prove his incapacity, which would entitle him to the disability benefits that he sought.

After thoroughly reviewing the records of this case, the Court concludes and so declares that the instant petition lacks merit.

The Applicable Law and Jurisprudence
in the Award of Disability Benefits of Seafarers

The application of the provisions of the Labor Code to the contracts of seafarers had long been settled by this Court. In *Remigio v. National Labor Relations Commission*,³⁷ we emphatically declared that:

The standard employment contract for seafarers was formulated by the POEA pursuant to its mandate under E.O. No. 247 to "secure the best terms and conditions of employment of Filipino contract workers and ensure compliance therewith" and to "promote and protect the well-being of Filipino workers overseas." Section 29 of the 1996 POEA SEC itself provides that "[a]ll rights and obligations of the parties to [the] Contract, including the annexes thereof, shall be governed by the laws of the Republic of the Philippines, international conventions, treaties and

³⁷

521 Phil. 330 (2006).

covenants where the Philippines is a signatory.” Even without this provision, a contract of labor is so impressed with public interest that the New Civil Code expressly subjects it to “the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects.”

Thus, the Court has applied the Labor Code concept of permanent total disability to the case of seafarers. x x x.³⁸

The Labor Code defines **permanent total disability** under Article 192(c)(1), which states:

ART. 192. PERMANENT TOTAL DISABILITY. – x x x

x x x x

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

(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided in the Rules[.] (Emphasis ours.)

This concept of **permanent total disability** is further explained in Section 2(b), Rule VII of the Implementing Rules of Book IV of the Labor Code (Amended Rules on Employees Compensation) as follows:

SEC. 2. *Disability*. – x x x

(b) A disability is **total and permanent** if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period exceeding 120 days, except as otherwise provided for in Rule X of these Rules. (Emphasis ours.)

The exception in Rule X of the Implementing Rules of Book IV (Amended Rules on Employees Compensation) as mentioned above, on the other hand, pertains to an employee’s entitlement to **temporary total disability benefits** under Section 2 of the aforesaid Rule X, to wit:

³⁸

Id. at 346.

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

In *Vergara v. Hammonia Maritime Services, Inc.*,³⁹ the Court discussed how the above-mentioned provisions of the Labor Code and its implementing rules should be read in conjunction with the first paragraph of Section 20(B)(3) of the 2000 POEA SEC, which states:

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.

Correlating the aforementioned provision of the POEA SEC with the pertinent labor laws and rules, *Vergara* teaches that:

As these provisions operate, the seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment. **For the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work.** He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. **If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.**

³⁹

G.R. No. 172933, October 6, 2008, 567 SCRA 610.

X X X X

As we outlined above, **a temporary total disability only becomes permanent when so declared by the company physician within the periods he is allowed to do so, or upon the expiration of the maximum 240-day medical treatment period without a declaration of either fitness to work or the existence of a permanent disability.** X X X.⁴⁰
(Emphases ours.)

Incidentally, although the contract involved in *Vergara* was the 2000 POEA SEC, the Court applied the ruling therein to the case of *Magsaysay Maritime Corporation v. Lobusta*,⁴¹ which involved the 1996 POEA SEC. As noted in *Lobusta*, the first paragraph of Section 20(B)(3) of the 2000 POEA SEC was copied verbatim from the first paragraph of Section 20(B)(3) of the 1996 POEA SEC.

From the foregoing exposition, Medel's entitlement to permanent total disability benefits becomes clear. Medel was accidentally injured on board the M/V Optima on March 1, 1999, where he sustained an open depressed fracture on the left frontal side of his forehead, as well as damage to his left eye and frontal sinus. Since his repatriation to the Philippines on March 13, 1999, Medel underwent medical treatment for his condition under the supervision of Dr. Lim, the company-designated physician, at the Metropolitan Hospital. He was initially given medications to manage his condition and he went through surgical procedures to repair the damage to his left eye on April 22, 1999, July 14, 1999 and July 19, 1999. Medel's condition was continuously evaluated by the hospital's ophthalmologist and neurologist. On October 20, 1999, Medel went through the procedure of cranioplasty to repair his fractured skull.⁴² According to Dr. Lim, Medel was seen by the hospital neurologist and neurosurgeon on February 11, 2000, on which date he was pronounced fit to resume sea duties.

⁴⁰ Id. at 628-629.

⁴¹ G.R. No. 177578, January 25, 2012.

⁴² *Rollo*, pp. 88-95.

Unmistakably, from the time Medel signed off from the vessel on March 13, 1999 up to the time his fitness to work was declared on February 11, 2000, more than eleven (11) months, or approximately 335 days, have lapsed. During this period, Medel was totally unable to pursue his occupation as a seafarer. Following the guidelines laid down in *Vergara*, it is evident that the maximum 240-day medical treatment period expired in this case without a declaration of Medel's fitness to work or the existence of his permanent disability determined. Accordingly, Medel's temporary total disability should be deemed permanent and thus, he is entitled to permanent total disability benefits.

With respect to the alleged earlier pronouncement of Dr. Ong as to the fitness of Medel for sea duties, the Court is not thereby persuaded. To recall, the said pronouncement was made on October 25, 1999 in a letter addressed to Dr. Lim after the cranioplasty of Medel was undertaken on October 20, 1999. After explaining the delay in the conduct of the said procedure, Dr. Ong stated that he “**think[s] patient can resume sea duties without any disability.**”⁴³ The statement of Dr. Ong, however, was not a categorical attestation as to the actual fitness of Medel to resume his occupation as a seafarer. Plainly, after Medel underwent cranioplasty to repair the fracture in his skull, it is not farfetched to assume that he still needed additional time for his wound to heal and to recuperate in order to restore himself to his former state of health. In their Memorandum, petitioners even acknowledged that despite the above opinion of Dr. Ong, Medel continued to avail of further medical treatment and rehabilitation.⁴⁴ Medel also had to be evaluated by specialists to assess his condition. In their Memorandum, petitioners related that “[u]ltimately, the company-designated

⁴³ Id. at 96.


⁴⁴ Id. at 387-388.

physicians declared that petitioner was ‘fit to resume sea duties’ by Medical Certificate dated 15 February 2000.”⁴⁵ The certificate signed by Dr. Lim pertinently stated that “[Medel] was seen by our neurologist and neurosurgeon. His wound is healed. His perimetry result was given to our neurologist and he opines that patient is now fit to work.”⁴⁶ The same certificate declared that “[Medel] was pronounced fit to resume sea duties as of February 11, 2000.”⁴⁷ To our mind, the medical certificate of Dr. Lim dated February 15, 2000 is the definitive declaration on the physical condition of Medel. Unfortunately for petitioners, however, this declaration was issued beyond the 240-day period as mandated in *Vergara*.

Consequently, we find no reason to overturn the Court of Appeals’ conclusion regarding Medel’s right to disability benefits, albeit on different legal grounds.

WHEREFORE, the instant Petition for Review on *Certiorari* is **DENIED**. Petitioners Fair Shipping Corporation and Kohyu Marine Co., Ltd. are held jointly and severally liable to pay Joselito T. Medel permanent total disability benefits of US\$60,000.00, to be paid in Philippine Peso at the exchange rate prevailing at the time of actual payment. Costs against petitioners.

SO ORDERED.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

⁴⁵ Id. at 388.

⁴⁶ Id. at 121.

⁴⁷ Id.

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice