



DEL ROSARIO PANDIPHIL Inc.

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By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., May 21, 2015 (Issue 2015/12)

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

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Supreme Court denies death benefits as seafarer dies outside of employment; denies award of disability benefits as this was not claimed during the proceedings

Seafarer was employed as a motorman by the company on board their vessel for a period of 11 months. Seafarer finished his contract and was repatriated to the Philippines after completion thereof. Upon reporting to the manning agents, seafarer did not report any illness or medical condition.

Almost a year and a half after repatriation, seafarer died of cardio-respiratory arrest brought about by complications of lung cancer. This prompted the seafarer’s heirs to file a claim for death benefits before the NLRC alleging that the death is compensable because its cause was aggravated by tuberculosis, an illness the seafarer acquired during the existence of his contract.

The Labor Arbiter agreed with the arguments of the heirs and awarded death benefits to the heirs. However, the NLRC reversed the Labor Arbiter and held that the complaint should be dismissed considering that the death was not suffered during employment and it was readily proven that the seafarer did not suffer any medical condition during employment.

With the Court of Appeals, the claim for death benefits was also denied but the appellate court instead awarded disability benefits to the heirs on the reasoning that the right to disability benefits already accrued to the seafarer and it would be unfair to deny this just because the seafarer died already.

The Supreme Court agreed that death benefits should be denied but disagreed with the award of disability benefits.

On the death benefits

The Court held that it is clear that for the death of a seafarer to be compensable, the same must occur during the term of his contract of employment. If the seaman dies after the termination of his contract, his beneficiaries

are not entitled to death benefits.

In this case, seafarer's employment contract ended on November 23, 1999. He died on April 25, 2001, more than one (1) year and five (5) months from the time his employment contract expired. It, therefore, follows that the heirs of the seafarer, are not entitled to death benefits.

Even if the Court were to consider the possibility of compensation for the death of the seafarer after the termination of his employment contract on account of a work-related illness, the heirs, nonetheless, did not present evidence to prove that seafarer acquired lung cancer during his employment and that the said disease, which caused his death, was the reason for the termination of his contract. On the contrary, the heirs claimed that Padrones was afflicted only with tuberculosis during his employment. In fact, they even failed to present substantial evidence to show that seafarer acquired this illness while he was employed nor were they able to prove their contention that it contributed to his death.

On disability benefits

The Court held that the appellate court erred in awarding disability benefits to the heirs.

During the proceedings before the Labor and the NLRC, the heirs never claimed for payment of disability benefits. No issue was raised regarding the issue of entitlement to disability benefits. The resolution of this issue requires the admission and calibration of evidence and since the heirs did not specifically raise this matter in the proceedings before the Labor Arbiter and the NLRC, these tribunals were not given a chance to pass upon it in their decisions. Hence, the issue of whether or not the seafarer or his beneficiaries are entitled to disability benefits cannot be passed upon on appeal because it was not raised in the tribunals *a quo*. Well-settled is the rule that issues not raised below cannot be raised for the first time on appeal as to do so would be offensive to the basic rules of fair play and justice.

Wallem Philippines Services, Inc., and Wallem Ship Management Ltd. vs. Heirs of the Late Peter Padrones; G.R. No. 183212, March 16, 2015; Third Division; Associate Justice Diosdado Peralta, Ponente.

Supreme Court rules restitution is implied in the event of a reversal of an executed judgment and there is no need for a categorical order from the Court for the claimant to return the money

By way of background, in 2011, the NLRC Rules of Procedure included for the first time a rule on restitution where an executed judgment of the NLRC is reversed or modified by the appellate courts. The initial version of the rule merely states that in the event the executed judgment is reversed or modified by the appellate courts, the Labor Arbiter shall issue such orders of restitution of the executed award. This rule was amended in 2014 wherein the NLRC will allow restitution if so ordered by the appellate courts. This change made it more difficult than it already is for the employer to obtain a writ of restitution.

In ***Wallem Maritime Services, Inc. v. Donabelle Pedrajas and Sean Jade Pedrajas***, we found the opportunity to question the wisdom of the amendment of the NLRC rule before the Supreme Court. In said case, the Supreme Court held that even if there is no express order of restitution by the appellate court, it does not mean that the claimants cannot be compelled to return the amount paid by the employer. It is common sense that since the judgment of the NLRC was reversed by the Supreme Court, the claimants are required to return to the company the amount paid to them by way of restitution without need from a categorical order from the Court. Restitution is necessarily implied when the executed judgment is reversed and all that is needed is to file a motion to this effect with the Labor Arbiter.

This is surely a welcome development which would make the process of restitution less contentious.

Wallem Maritime Services, Inc. and Reginaldo Oben / Wallem Shipmanagement Ltd. v. Donabelle Pedrajas and Sean Jade Pedrajas, G.R. No. 192993, Resolution dated 6 April 2015, Third Division, Associate Justice Diosdado Peralta, Ponente. (Attys. Florencio Aquino and Charles Dela Cruz handled for vessel interests)

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