



# ***DEL ROSARIO PANDIPHIL Inc.***

## **Philippine Shipping Updates – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., July 7, 2009

This issue contains the following:

Disability arising from a pre-existing illness held not compensable

Illness incurred after repatriation held not compensable

Hemorrhoids held not compensable

Miscellaneous Notes

### **Disability arising from a pre-existing illness held not compensable; seafarer previously received disability benefits from previous employment**

Seafarer filed a claim for disability due to “disc herniation”. Vessel interests denied the claim as seafarer concealed the fact that he was previously granted disability compensation for the same illness in his previous employment. Seafarer however argued that the PEME should have discovered his illness and that said PEME declared him fit to work. Further, his illness was aggravated during his employment and under court decisions, he is entitled to compensation if his employment contributed even to a small degree to his illness.

The Court of Appeals denied seafarer’s claim as under Section 20E of the POEA Standard Contract, a seafarer who knowingly conceals and does not disclose past medical condition, disability and history in the pre-employment medical examination constitutes fraudulent misrepresentation and shall disqualify him from any compensation and benefits. Further, seafarer was only on board 44 days and no proof was submitted to show that his illness was contracted as a consequence of his employment. The court ruled that there must be real and substantial evidence to prove work-causation or work-aggravation in order for an illness or injury to be compensable.

*Bernardito Enriquez vs. National Labor Relations Commission et. al.; G.R. S.P. No. 104440; Ninth Division; May 22, 2009, Court of Appeals Associate Justice Rebecca De Guia-Salvador, Ponente. (Attys. Pedrito Faytaren and Charles de la Cruz of Del Rosario & Del Rosario handled for vessel interests.)*

### **Illness incurred after repatriation held not compensable**

In a Court of Appeals decision, the court ruled that a seafarer who was repatriated for jaundice but claimed disability for arthritis was not entitled to compensation. The claim must be for jaundice in order for such illness to be compensable. In this case, seafarer was treated for his jaundice and was declared fit to work by the company physician. Seafarer’s claim for permanent disability due to arthritis cannot be compensated. The court noted that seafarer never complained of arthritis or pains in his leg while on board the vessel. Thus, said illness of arthritis cannot be considered as work-related or was said illness suffered during the term of his employment contract.

*Armando Igrobay vs. National Labor Relations Commission et. al.; G.R. S.P. No. 103912 ; Eighth Division; May 28, 2009, Court of Appeals Associate Justice Josefina Guevara-Salonga, Ponente. (Attys. Dennis Acaban and Herbert Tria of Del Rosario & Del Rosario handled for vessel interests.)*

## Hemorrhoids held not compensable

The Court of Appeals denied a claim by a chief cook for disability due to hemorrhoids. The court noted that seafarer was deemed cured by the company physician who is designated under the contract as the one who should determine seafarer's fitness to work and degree of disability. The Court ruled:

"...there is no conclusive study on the causes of hemorrhoids and even in the absence of identified risk factors, some people still develop hemorrhoids. In this case, seafarer was unable to adduce any evidence that his work as chief cook on board vessel increased his risk of acquiring hemorrhoids by frequent lifting of heavy objects. Neither was it shown that seafarer contracted hemorrhoids during his employment..."

*Rafael Lozano vs. National Labor Relations Commission et. al.; G.R. S.P. No. 107414; Third Division; May 29, 2009, Court of Appeals Associate Justice Martin Villarama, Jr., Ponente. (Attys. Pamela Coseip-Abarico and Herbert Tria handled for vessel interests.)*

## Miscellaneous Notes

Del Rosario & Del Rosario announces the promotion to Senior Associates of Hansel Tillmann, Saben Loyola and Pedrito Faytaren Jr. Congratulations.

This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email [ruben.delrosario@delrosario-pandiphil.com](mailto:ruben.delrosario@delrosario-pandiphil.com).

This publication is sent from time to time to clients and friends. To unsubscribe, reply to this email and put "[unsubscribe](#)" in the subject.

---

### Del Rosario Pandiphil Inc. / Del Rosario & Del Rosario

**Office Address:** 15th Floor, Pacific Star Building, Makati Avenue, 1200 Makati City, Philippines

**Telephone:** 63 2 810 1791 \* **Fax:** 63 2 817 1740/ 63 2 810 3632

**24/7 Emergency Mobile:** (63) (917) 830-8384; [mail@delrosario-pandiphil.com](mailto:mail@delrosario-pandiphil.com); [www.delrosario-pandiphil.com](http://www.delrosario-pandiphil.com)

