



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., November 19, 2010

In this issue:

Supreme Court denies disability benefits for “brief psychotic disorder”

POEA Memo Circular requires reporting of significant incidents within 24 hours

Ban on Nigeria deployment reiterated

Supreme Court denies disability benefits for “brief psychotic disorder”

Seafarer began exhibiting signs of mental instability. He was repatriated and was diagnosed to be suffering from brief psychotic disorder such as hallucinations, persecutory delusions and paranoia. He then eventually demanded for payment of disability compensation from the respondents.

Vessel interests maintained that seafarer requested for an early repatriation. Upon thorough psychiatric evaluation by the company-designated physician, it was concluded that seafarer’s illness was not work-related but was caused by family problems. The company physician thus never declared seafarer as permanently and totally disabled.

The Labor Arbiter ruled in favor of the seafarer. Seafarer was subjected to stress because of the rigorous and strenuous demands of being at sea for a prolonged period of time, causing him sensory deprivation and isolation. Thus, there was a great risk to contract brief psychotic disorder. Moreover, the 120 days period had lapsed without having declared the degree of seafarer’s disability. Thus, he was considered to be totally and permanently disabled as he is no longer capable of earning wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform. The NLRC Commission affirmed the decision of the Labor Arbiter.

The Court of Appeals reversed the decision of the NLRC. The court ruled that brief psychotic disorder is not listed as an occupational disease. The court further ruled that seafarer’s brief psychotic disorder was not contracted as a result of or caused by the seafarer’s work as an oiler on board the vessel. As gleaned from the medical records, seafarer suffered hallucinations, persecutory delusions and paranoia. The working diagnosis is brief psychotic disorder. The company-designated physician said that seafarer’s condition does not appear to be work-related since seafarer himself claims that he had no significant stress at work and his symptoms were most likely triggered by his personal family problems. However, the court awarded Php50,000.00 as financial assistance.

The Supreme Court ruled that indeed the illness of brief psychotic disorder was not work-related and therefore not compensable.. The Court said that seafarer failed to establish that his brief psychotic disorder was caused by the nature of his work as an oiler. Seafarer failed to elaborate on

the nature of his job or to specify his functions as an oiler. The Court had difficulty finding any link between seafarer's position as an oiler and his illness. The Court can only surmise that the brief psychotic disorder suffered by the seafarer was brought about by a family problem. Therefore, the findings of the company-designated physician that petitioner's brief psychotic disorder is not work-related must be respected.

The Court held that **“While it is true that labor contracts are impressed with public interest and the provisions of the POEA-SEC must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, still the rule is that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.”**

Edgardo Panganiban vs. Tara Trading Ship Management, Inc. and Shinline SDN BHD; GR No. 187032; Second Division; October 18, 2010, Supreme Court Associate Justice Jose Catral Mendoza, Ponente. (Attys. Alejandro Casabar and Herbert Tria of Del Rosario & Del Rosario handled for vessel interests)

POEA Memo Circular requires report of significant incidents within 24 hours

A gentle reminder:

POEA Memorandum Circular No 01-2005 dated January 4, 2005 requires all foreign shipping principals, licensed manning agencies and Philippine overseas shipping companies to report to the POEA, not later than 24 hours from the time of occurrence, significant incidents concerning employed Filipino seafarers such as the following

1. Death
2. Injury or Illness
3. Detention in foreign ports
4. Abandonment in foreign ports
5. Missing
6. Desertion

The report will enable the POEA to take appropriate action and request the assistance, if needed, of Philippine embassies / consulates / overseas labor offices to ensure delivery of needed assistance to seafarers and their families.

Ban on Nigeria deployment reiterated

POEA Advisory No. 27, Series of 2010 dated 3 November 2010 states under Nigeria: *The ban includes the entry of Filipino seafarers to Nigeria on board vessels on liner service calling on Nigerian ports.*

We have requested clarification with the POEA on above and have been informed that the ban covers only Filipino seafarers on-board vessels engaged in “cabotage” or so-called coastwise trade sailing exclusively between ports on the Nigerian coast. This was as reported in my Philippine Shipping Update of 19 February 2008.

“The Philippines’ top shipping firm, Del Rosario & Del Rosario has a wealth of talent at its disposal.”

from Asia-Pacific, The Legal 500, 2009-2010, p. 341

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 .

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; www.delrosario-pandiphil.com

