



## Shipping and the Law

### Supreme Court denies death claim for renal failure

By: Ruben Del Rosario, Managing Partner, Del Rosario & Del Rosario, January 19, 2006

Seafarer has been repeatedly hired for eight years as seafarer with the same manning agent and principal. His last contract was January 25, 1997 as messman. He had a pre-employment medical exam where he was declared fit to work. While on board, he complained three times of various illnesses and was treated and advised to rest. He signed off on finished contract on November 19, 1997. On December 5, 1997, he claimed his leave pay and one day travel allowance. On December 24, 1997, he was confined at the hospital for "end-stage renal disease 2nd degree tubulo-interstitial nephritis". His wife claimed his retirement pay of US\$371.80 which was paid. In January 1998, his wife filed a grievance complaint with the union Amosup for non-payment of disability benefits. No settlement was reached and seafarer eventually died on April 28, 1999 for congestive heart failure secondary to chronic renal disease.

Seafarer's wife filed a claim for death benefits with the Labor Arbiter claiming work-relation between the cause of death and work on board the vessel. The Labor Arbiter dismissed the complaint for lack of merit. On appeal, the NLRC awarded death benefits. The Court of Appeals reversed the decision of the NLRC and the case reached the Supreme Court.

The widow argued that death benefits should be awarded as illness could not have been acquired elsewhere than on board the vessel as it was diagnosed barely one month after her husband finished his contract. Further, her husband has been employed by vessel from 1989 to 1997. Her husband's illness was already present during employment on board the vessel.

Vessel on the other hand argued that seafarer died more than one year after the term of the contract. Seafarer did not report for medical checkup three days after his date of arrival as required by the POEA contract.

The Supreme Court ruled in favor of the vessel and dismissed widow's claim for death benefits. The Court reasoned thus:

1. Seafarer failed to submit himself to the mandatory post-employment medical examination as required by the POEA Standard Employment Contract.
2. There is no substantial evidence to show that the disease for which the seaman died was contracted during his employment or that his working conditions increased the risk of contracting the ailment. Working conditions cannot be presumed to have increased the risk of contracting the disease of chronic renal failure. Under the POEA contract, it is the company physician who is entrusted with the task of assessing the seafarer's disability due to injury or illness during the term of employment.
3. The death of a seaman even during the term of employment does not automatically give rise to compensation. The circumstances which led to the death as well as the provisions of the contract, and the right and obligation of the employer and the seaman must be taken into consideration in consonance with the due process and equal protections clauses of the Constitution. (*Mabuhay Shipping Services, Inc. vs. NLRC*, G.R. No. 94167, 21 January 1991, 193 SCRA 141).
4. The seafarer was not repatriated due to illness but was repatriated because he had completed his contract.

The Supreme Court summarized it's ruling as follows:

"Based on the foregoing, the Court does not find any basis to grant private respondent's (seafarer) claim for disability benefits. (Seafarer) Rivera was repatriated after the completion of his contract and not because he was ill. The procedure provided for under Paragraph 3, Section 20(B) was not also complied with. Moreover, the Medical Certificate submitted by private respondent does not sufficiently prove Rivera's sickness was work-related. As such the NLRC gravely abused its discretion when it reversed findings of the Labor Arbiter."

**Lourdes D. Rivera vs. Wallem Maritime Services Inc. and Wallem Shipmanagement, Ltd., G.R. No. 160315, November 11, 2005**

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