



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Updates – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., February 5, 2008

Supreme Court rules cancer not compensable; rules that death occurred after end of contract and no proof of work-relation

Seafarer was employed as a second officer under the POEA Standard Employment Contract*. He experienced painful urination which the company-designated physician suspected to be urinary tract infection. After completion of his employment contract, he sought a second opinion from his private physician. It was then discovered that he was suffering from urinary bladder cancer. He underwent surgery for the removal of the malignant mass. He then sought for another deployment with vessel interests but the latter refused employment because of his noted ailment and recent surgery.

One and a half years after the termination of his contract, the seafarer died and the cause of death was cardio-respiratory arrest secondary to urinary bladder cancer with metastasis. The deceased's heirs filed a complaint for death and compensation benefits and attorney's fees.

The Labor Arbiter dismissed the complaint for lack of merit. The office said that the deceased's death could not be compensated because the same did not occur during the term of his employment contract. Likewise, it was not shown that his illness was work-related.

The NLRC affirmed the Labor Arbiter's decision. The case was elevated to the Court of Appeals. The appellate court granted the petition and ordered to pay the deceased's heirs the amount of US\$50,000.00 as death benefits, US\$7,000.00 for each two minor children and US\$1,000.00 as burial allowance. The court ruled that compensability under the Standard Contract should be understood to cover an illness which led to the death of the seafarer occurring during the term of the employment contract, and should not be limited to death occurring during the term of the deceased's employment. It held that while the exact cause of cancer was still unknown, it is a disease which is not contracted and developed overnight but rather progresses in different stages. Thus, there was a likelihood that the disease was contracted by the deceased while he was onboard the vessel.

Vessel interests argued that the Standard Contract provides death benefits only to beneficiaries of seafarers who die during the term of the employment contract. Thus, deceased's heirs are not entitled to death benefits because the deceased seafarer died more than one and a half years after completion of the contract. Moreover, deceased's heirs failed to adduce any evidence that the risk of contracting bladder cancer was increased by his working conditions.

The Supreme Court, through Associate Justice Tinga, reversed the decision.

The Court held that if the seaman dies after the termination of his employment, his beneficiaries are not entitled to the death benefits as stated in Section 20 Of the POEA Standard Employment Contract.

In this case, the seafarer died **one and a half years after the termination of his employment.** His heirs, therefore, are not entitled to death benefits under the Standard Contract.

The court further considered the possibility of death compensation after the termination of the employment contract if the death was due to a work-related illness.

In this case, seafarer's heirs were unable to adduce that the deceased's work exposed him to the chemicals suspected to increase the risks of acquiring bladder cancer. There was no evidence to prove that his bladder cancer was acquired during his employment. **Therefore, in the absence of substantial evidence, the deceased's working conditions cannot be assumed to have increased the risk of contracting bladder cancer.**

The court finally declared a well-settled principle:

"While it is true that labor contracts are impressed with public interest and the provisions of the POEA Standard Employment Contract must be construed fairly, reasonable and liberally in favour of Filipino seamen in the pursuit of employment on ocean-going vessels, we should always be mindful that justice in every case for the deserving, to be dispensed in the light of established facts, the applicable law and existing jurisprudence."

*Author's Note: The seafarer was under the old POEA SEC (Standard Employment Contract) but the Court decided the case under the new POEA SEC. I believe the decision stands whether under the old or the new POEA SEC.

Attys. Anna Lea Dy and Charles de la Cruz of Del Rosario & Del Rosario handled for vessel interests.

Klaveness Maritime Agency, Inc., and Torvald Klaveness Co., vs. Beneficiaries of the Late Second Officer Anthony S. Allas, represented by Cheryl Z. Allas, G.R. No. 168560, January 28, 2007, Second Division, Associate Justice Dante O. Tinga, Ponente

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.

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