



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Updates – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., August 4, 2008

This issue contains the following:

Waiver of benefits executed before deployment held invalid

Right of Labor Arbiter to appoint third physician upheld

Miscellaneous Notes

Waiver of benefits executed before deployment held invalid

Seafarer was found to have unstable blood pressure. He however insisted to be deployed and thus he executed an Affidavit of Waiver releasing vessel from any responsibility and liability as a result of a Fit to Work certification.

Seafarer died during his employment due to “acute cessation of blood circulation and respiration”.

The Supreme Court held the death as compensable as it occurred during employment. As per the terms of the POEA contract applicable the death need not be work-related in order to be compensable. (The 2000 POEA contract was applied but the work-related provisions were not applied by the Court as said provisions were under a Temporary Restraining Order at the time of seafarer’s deployment).

As to the waiver, the Court cited the NLRC ruling thus:

“Respondent (vessel) cannot escape liability on the mere basis of the affidavit of waiver supposedly executed by the deceased seaman. The basic reason is that waivers and quitclaims are against public policy and therefore null and void. More especially, we are inclined to regard the document as spurious or fabricated because it was only brought out on appeal after the Labor Arbiter has awarded death benefits in favour of complainant and her 4 minor children”

(Author’s Note: Del Rosario did not handle this case and thus we are unaware of any other aspects of the case aside from the actual Supreme Court decision).

Coastal Safeway Marine Services Inc. vs. Leonisa M. Delgado, G.R. No. 168210, June 17, 2008, Second Division, Justice Leonardo Quisumbing, Ponente

Right of Labor Arbiter to appoint third physician upheld

In *Maunlad vs. Flaviano Manigo*, the Supreme Court upheld the right of the Labor Arbiter to appoint a government physician to examine the seafarer.

This decision is actually now rendered somewhat obsolete by the 2000 POEA contract which allows a third doctor to examine the seafarer should there be a disagreement between the company doctor and the seafarer's doctor.

Maunlad Transport, et. al. vs. Flaviano Manigo, Jr., G. R. No. 161416, June 13, 2008, Third Division, Justice Ma. Alicia Austria-Martinez, Ponente

Miscellaneous Notes

POEA Governing Board Resolution No. 01-2008 has increased the AB basic minimum wage from US\$385 to US\$465. The basic wage of US\$385 was implemented July 2000. The new rate is effective two months from 14 March 2008.

The Department of Labor and Employment per its Governing Board Resolution 02-2008, dated 4 June 2008 has returned to the POEA the authority to issue and renew licenses. However, licenses of those with unresolved recruitment violation complaints involving money will be held in abeyance.

A resolution was passed by the United Nations Security Council authorizing "all necessary means" to put an end to the piracy in and around Somali waters.

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

