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Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., February 4, 2013 (Issue 2013/02)

Supreme Court denies seafarer's claim based on the three day mandatory reportorial requirement

Section 20 (3) of the POEA Standard Employment Contract states:

...the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates prescribed by the company-designated physician and agreed to by the seafarer. **Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.**

In two fairly recent decisions, the Supreme Court denied employees' claim for disability compensation for failure to comply with the three day mandatory reportorial requirement.

In ***Loadstar vs. Calawigan***, seafarer resigned one month prior to the end of his contract citing personal reasons. He later on filed a claim for permanent total disability benefits alleging his employment exposed him to stress, depression, chemical irritants and the rigors of the sea. He claimed that he requested for medical attention from the manning agents but he was just referred to the Social Security System. He consulted his own physician who found him suffering from retinal detachment and loss of hearing on the right ear and thus, gave seafarer a Grade 3 disability grading.

During the pendency of the case, the seafarer died of a heart attack. His heirs pursued the claim.

The Labor Arbiter dismissed the complaint as there was no showing that the seafarer was repatriated due to medical reasons. The NLRC likewise dismissed the complaint as the hearing loss cannot be attributed to his work on board the vessel and for failure to comply with the three day reporting requirement.

The Court of Appeals granted Grade 3 benefits stating, among others, that seafarer did see a doctor for his eye ailment while on the vessel and that the non-reporting for post-medical examination was due to the inaction of manning agents.

The Supreme Court held that the heirs are not entitled to disability benefits claimed by the seafarer.

The Court ruled that the seafarer failed to establish compliance with the requirement for him to undergo post-employment medical examination by a company-designated physician within three working days from his repatriation. There was no evidence, aside from the bare allegation of the seafarer, which would show that he reported to the company and asked for medical assistance within the required period.

Also, the award of US\$39,180 disability benefits (equivalent to Grade "3" assessment of seafarer's doctor) has no basis. Under the POEA Contract's Schedule of Disability or Impediment for Injuries Suffered and Diseases, a Grade "3" disability

assessment pertains to total deafness of both ears. Since medical evidence does not even show that the seafarer is suffering from deafness in one ear, he is not entitled to disability benefits. While strict rules of evidence are not applicable in claims, compensation and disability benefits under the POEA Contract cannot be awarded to ailment or injuries not falling within its purview.

In ***Crew and Ship Management vs. Soria***, seafarer had burn injuries on his left knee for which he was repatriated. He did not report to the manning agents until nine days later where he was referred to the company doctor. Unfortunately, two weeks later, the seafarer later died of pneumonia. The widow filed a claim for death benefits alleging seafarer died of pneumonia due to tetanus as a result of the burn injuries.

The Labor Arbiter dismissed the claim on the ground that the seafarer died of pneumonia which was unrelated to the burn injuries and the death occurred after the termination of the contract.

The NLRC ruled in favor of the seafarer believing that pneumonia indeed resulted from the tetanus due to burn injuries. The vessel failed to prove otherwise. On motion for reconsideration, the NLRC reversed its ruling stating that the wife failed to establish causality between the injury sustained on board the vessel, and the cause of death. The Court of Appeals affirmed the initial decision of the NLRC and awarded death benefits.

The Supreme Court held that the widow is not entitled to disability benefits for the following reasons:

1. **The seafarer failed to comply with the three days mandatory reportorial requirement under the POEA Contract as it was only 9 days after repatriation that he sought consult with the company-designated doctor. The reason for this requirement is that within 3 days from repatriation, it would be fairly manageable for the physician to identify whether the disease for which the seaman died was contracted during the term of his employment or that his working conditions increased the risk of contracting the ailment.**
2. **The wife failed to adduce substantial evidence showing that the pneumonia, which the seafarer contracted, was caused by tetanus as a result of the burn injury.** There was no medical report which would even show that tetanus was the cause as to why the seafarer suffered pneumonia that eventually caused the death.

The Court held in closing that substantial evidence is more than a mere scintilla. Any decision based on unsubstantiated allegations cannot stand as it will offend due process.

Author's Note: Kindly note that, according to the Supreme Court, the reason for this requirement is that within 3 days from repatriation, it would be fairly manageable for the physician to identify whether the disease for which the seaman died was contracted during the term of his employment or that his working conditions increased the risk of contracting the ailment. However, please note that in addition to non-compliance with the three day mandatory reporting requirement, the Supreme Court denied compensation for lack of basis of the disability assessment of the seafarer's doctor (Calawigan Case) and failure of the claimant's to prove with substantial evidence that the illness/death is work-related (Soria Case). It remains to be seen whether the NLRC and the NCMB will adopt these two Supreme Court rulings.

Loadstar International Shipping, Inc. vs. The Heirs of the Late Enrique Calawigan Represented by then Legal Spouse Maritess Calawigan; G.R. No. 187337; Second Division, December 05, 2012; Associate Justice Jose Portugal Perez, Ponente

Crew and Ship Management International Inc., and Salena Inc. vs. Jina Soria; G.R. No. 175491; Third Division, December 10, 2012; Associate Justice Jose Catral Mendoza, Ponente

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Del Rosario & Del Rosario / Del Rosario Pandiphil, Inc.

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 mobile: (63) (917) 830-8384; mail@delrosario-pandiphil.com; www.delrosariolaw.com