



# ***DEL ROSARIO PANDIPHIL Inc.***

## **Philippine Shipping Update – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., February 4, 2016 (Issue 2016/01)

*“Del Rosario & Del Rosario is often first port of call for employment law within the maritime industry, where it represents shipowners, agents, insurers and port owners.” Asia-Pacific, The Legal 500, 2014, p. 494*

## **Supreme Court denies compensability in suicide of seafarer based on Master’s Report**

The Supreme Court was faced with the task of resolving the conflicting findings of the NLRC and the Court of Appeals in determining the compensability of seafarer’s death. The NLRC denied the claim as it found that seafarer’s death was due to suicide. On the other hand, the Court of Appeals differed and found that the fact of suicide was not duly established by evidence.

On-board the vessel, a crewmember was celebrating his birthday and there was a small gathering for this purpose. The subject seafarer was invited but declined to join. Thereafter, the Master ordered the conduct of a fire drill. After the fire drill, a meeting was held where the seafarer was admonished because of poor performance. Even prior to the end of the meeting, the seafarer left.

After the meeting, the Master asked the crew to look for the seafarer as he was no longer in the meeting area. The crew searched for the seafarer and one fellow crew said he saw him jump overboard. Despite search for the crew, he was not found.

Inside his cabin, they saw a suicide note where he was apologizing to his fellow crew for letting them down and that his remorse can only be replaced by ending his life. The details of the incident were laid down in the Master’s Report, Statement of Facts and Investigation Report.

Unsatisfied, the heirs of the seafarer filed a claim for death benefits against the company. They alleged that the Master’s Report and Statement of Facts cannot be given any value as the Master who signed the same did not give positive testimony regarding the suicide of the seafarer. The Investigation Report signed by the crewmembers also cannot be given weight as they did not have any knowledge of the suicide and that the crew who saw the seafarer jump overboard did not sign the Investigation Report.

The Supreme Court, upon review of the allegations and evidence presented, held that the fact of suicide was duly proven by the Master’s Report, Statement of Facts and Investigation Report.

The Master’s Report was very detailed as to what happened prior, during and after the incident. The Statement of Facts also showed the steps taken by the vessel in retracing its route to look for the seafarer as well as reporting the same to the local manning agents and Japan Coast Guard who also assisted in the search and rescue operation. The statements of the Master were notarized by a notary public.

As to the Investigation Report, the company was fully able to explain the reason why the crew who saw the seafarer jumped overboard was not able to sign it. The crew already disembarked from the vessel at the time the investigation was concluded although he reported to the local manning agent where he reiterated his statement.

More importantly, the suicide note found only bolsters the fact that the seafarer committed suicide. In said note, he was apologetic to his fellow crew and blamed himself for the difficulties he assumed to have caused his colleagues. There was no evidence presented that would show that the note was fabricated and on the contrary, a simple comparison of the signatures of the seafarer in the note and his contract would show their similarities.

As substantial evidence was duly established to prove the fact of suicide, the heirs of the seafarer are not entitled to death benefits under the provisions of the POEA Contract.

*New Filipino Maritime Agencies, Inc., Taiyo Nippon Kisen Co., Ltd. and Angelina Rivera v. Vincent Datayan – Heir of Simon Vincent Datayan III, G.R. No. 202859, December 8, 2015, Second Division, Associate Justice Mariano Del Castillo, Ponente. (Attys. Christopher Ignacio and Denise Cabanos of DelRosarioLaw handled for vessel interests).*

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*“Del Rosario & Del Rosario is more or less unrivalled when it comes to maritime work in the Philippines” from Asia-Pacific, The Legal 500, 2014, p. 497*

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*“Offers comprehensive shipping expertise. Maintains an excellent reputation for representing P&I firms and handling collision and crew casualties. A strong team that is well known in the market.” Chambers Asia Pacific, 2014 p. 949*

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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](mailto:ruben.delrosario@delrosario-pandiphil.com).

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