



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., June 22, 2016 (Issue 2016/07)

“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

In this issue:

Aortic regurgitation not compensable as work-relation not proven

Firm News

Aortic regurgitation not compensable as work-relation not proven

Seaman was engaged as oiler. Prior to deployment, he was declared fit to work in the pre-employment medical examination (PEME). During employment, he felt heartache and loss of energy and was confined in a hospital for treatment. Later on, he was repatriated for further treatment where he was referred to the company-designated doctor. After examination and treatment, seaman was diagnosed with “aortic regurgitation, moderate” but declared the condition to be not work-related.

Seaman sought a second opinion and his doctor declared him to be unfit to work. On this basis, a claim was brought by the seaman before the NLRC. He claims that he is entitled to disability benefits as he was declared fit in the PEME and that his illness manifested during employment. He likewise argued that he is considered permanently and totally disabled as he was unable to work for more than 120 days.

The Labor Arbiter and the NLRC both dismissed the claim of the seaman as they found that seaman failed to show work-connection of the illness. However, the Court of Appeals awarded disability benefits as seaman's illness was suffered during employment and that he was unfit to work for more than 120 days.

Upon reaching the Supreme Court, the claim for disability benefits was dismissed.

The illness was not proven to be work-related

The Court held that those illnesses not listed as occupational diseases may be compensated if it is shown that they have been caused or aggravated by the seafarer's working conditions. The Court stressed that while the POEA-SEC provides for a disputable presumption of work relatedness as regards those not listed as occupational diseases; this presumption does not necessarily result in an automatic grant of disability compensation. **The claimant still has the burden to present substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, that his work conditions caused or at least increased the risk of contracting the illness.**

In this case, considering that seaman did not suffer from any occupational disease listed under Section 32-A of

the POEA-SEC, then to be entitled to disability benefits, he has the burden to prove that his illness is work-related. Unfortunately, he failed to discharge such burden. Records reveal that seaman was diagnosed of aortic regurgitation, a heart condition whereby the aortic valve permits blood ejected from the left ventricle to leak back into the left ventricle. Although this condition manifested while seaman was aboard the vessel, such circumstance is not sufficient to entitle him to disability benefits as it is of equal importance to also show that the illness is work-related.

Seaman simply relied on the presumption that his illness is work-related. He did not adduce substantial evidence that his work conditions caused, or at the least increased the risk of contracting his illness. He did not elaborate on the nature of his work and its connection to his illness.

In a belated attempt to establish work-relatedness, seaman argued that his illness is compensable due to stress. Such claim is unmeritorious as it still failed to prove the required linkage between the work and the illness to entitle the seaman to disability benefits.

The opinion of the company-designated doctor upheld

The Court in upholding the findings of the company-designated doctor held that Section 20(B) (3) of the POEA-SEC provides that the company-designated doctor is tasked to determine the fitness or the degree of disability of a medically repatriated seafarer. In addition, the company-designated doctor was shown to have closely examined and treated the seafarer from his repatriation up to four months thereafter. Thus, **reliance on the declaration of the company-designated doctor that seaman's condition is not work-related is justified.**

The Court also noted that even seaman's physician of choice made no pronouncement whether the condition is work-related or not. In his one-page medical report, seafarer's doctor only stated that seaman is not fit for work. He neither stated that seaman's condition is not work-related nor did he expound on his conclusion that respondent is not fit for work.

Passing PEME not indicative that illness was suffered during employment

Lastly, the Court holds that the fact that seaman passed the PEME is of no moment in determining whether he acquired his illness during his employment. **The PEME is not intended to be a thorough examination of a person's medical condition, and is not conclusive evidence that one is free from any ailment before deployment.** Hence, it does not follow that because seaman was declared fit to work prior to his deployment, then he necessarily sustained his illness while aboard the vessel.

Doehle-Philman Manning Agency, Inc., Doehle (IOM) Limited and Capt. Manolo T. Gacutan vs. Henry C. Haro, G.R. Nos. 206522, April 18, 2016; Second Division, Associate Justice Mariano Del Castillo, ponente

Firm News

Del Rosario Law Partner Charles Jay Dela Cruz was elected as Director and Corporate Secretary of the Philippines Norway Business Council (PNBC) for the term 2016-2017.

PNBC is a non-stock, non-profit organization which aims to promote closer economic and friendly relations between Philippines and Norway and provides a forum for exchange of views on business and commercial dealings in both domestic and international setting.

"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

"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

"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

Social Networking Sites



Twitter ID: delrosariopandi



Facebook Page: DelRosarioLaw

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: DelRosarioLaw Centre, 21st Drive corner 20th Drive, Bonifacio Global City, Taguig, Metro Manila, Philippines

Telephone: 63 2 810 1791 / 63 2 317 7888 **Fax:** 63 2 817 1740 / 63 2 317 7890

24/7 Emergency Mobile: (63) (917) 830-8384; mail@delrosario-pandiphil.com;

