



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

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

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., May 14, 2015 (Issue 2015/11)

*“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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## **Supreme Court rules that inability to work for more than 240 days equivalent to permanent and total disability benefits**

In ***Maunlad Trans., Inc./Carnival Cruise Lines, INC., and Mr. Amado L. Castro, Jr. vs. Rodolfo Camoral***, the seafarer was assessed by the company-designated doctors with a grade “10” disability on the 150<sup>th</sup> day of his treatment. However, the company-designated physicians likewise stated that with the disability, the seafarer will not be able to return to his previous work. The seafarer likewise presented a medical opinion from his own doctor declaring him unfit to return to sea duty.

The Court did not honor the grade “10” disability assessment issued by the company-designated physician as basis for disability benefits payable and instead held that seafarer is entitled to full disability benefits as he is now permanently and totally disabled. The Court noted that the company-designated doctor, as well as seafarer’s personal doctor was of the same opinion that fitness to go back to work is no longer attainable. Thus, the Court held that while the seafarer is partially injured or disabled, he must not be precluded from earning doing the same work he had before his injury or disability or that he is accustomed or trained to do. Otherwise, if his illness or injury prevents him from engaging in gainful employment for more than 120 days or 240 days, as the case may be, then he shall be deemed totally and permanently disabled. It is of no consequence that he recovered, for what is important is that he was unable to perform his customary work for more than 120/240 days, and this constitutes permanent total disability.

This was also the same finding of the Court in ***Sealanes Marine Services, INC./Arklow Shipping Netherlad and/or Christopher Dumatol vs. Arnel G. Dela Torre***. In the mentioned case, the seafarer was injured during a rescue boat drill. He was repatriated on 4 August 2010 for treatment with the company-designated doctor and was assessed with a grade “11” disability on 10 March 2011. Nevertheless, the seafarer still underwent treatment with the company-designated physician until 20 July 2011.

The Supreme Court held that the grade “11” disability rating issued on March 10, 2011 was only tentative as seafarer was in fact treated until 20 July 2011 which is beyond the 240 days prescribed to the company to

either declare the seafarer fit to work or finally assess the disability.

Moreover, it was shown that after the period of 240 days lapsed, the seafarer was still unable to perform his customary work because of his disability and according to the Court, this already gave him the right to file a claim for permanent and total disability benefits considering that it is not necessary that the disability be incurable.

**Author's Note:** The above cases were ruled based on the 2000 POEA-SEC. Hopefully, their application limits itself to the effectivity of the **2000** POEA-SEC considering that under the **2010** POEA-SEC, it is now specifically stated that disability shall not be measured by number of days of treatment but rather by the disability assessment issued by the doctor.

*Maunlad Trans., Inc./Carnival Cruise Lines, Inc., and Mr. Amado L. Castro, Jr. vs. Rodolfo Camoral; G.R. No. 211454, February 11, 2015; Third Division; Associate Justice Bienvenido L. Reyes, Ponente. (Attys. David Evelio Valencia and Herbert Tria of Del Rosario & Del Rosario handled for vessel interests).*

*Sealanes Marine Services, INC./Arklow Shipping Netherland and/or Christopher Dumatol vs. Arnel G. Dela Torre; G.R. No. 214132, February 18, 2015; Third Division; Associate Justice Bienvenido L. Reyes, Ponente. (Attys. Christopher Ignacio and Denise Luis Cabanos of Del Rosario & Del Rosario handled for vessel interests).*

## New Hires

Del Rosario & Del Rosario would like to congratulate and welcome its new lawyers to the firm.

**Eunice Carmela M. Ariate**, has a degree of Bachelor of Science, Major in Accountancy from San Beda College, Manila and a Bachelor of Laws degree also from the same school. She is likewise a Certified Public Accountant.

**Princess L. Ramirez** has a degree of Bachelor of Arts Major in Journalism from the University of the Philippines, Diliman and a Bachelor of Laws degree also from the same school.

**Rene G. Pilapil Jr.** has a degree of Bachelor of Arts, Major in Political Science from the De La Salle University, Manila and a Juris Doctor of Laws degree from the same school.

Del Rosario Pandiphil, Inc. also welcomes its new Claims Assistant, **Carfela V. Say**, who has a degree of Bachelor of Arts, Major in Psychology from De La Salle University, Dasmariñas, Cavite.

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*"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*  
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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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