



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

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

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., November 6, 2014 (Issue 2014/20)

***“Del Rosario ... 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***

## **Suicide notes and autopsy report proved seafarer committed suicide; claim for death benefits denied**

Seaman was hired as Engine Boy by the company. During the employment, and while the vessel was in Italy, seaman was found hanging on the Upper Deck B of the vessel with a rope tied to his neck. Seaman's spouse was informed of the incident. She was also informed that investigations were being conducted by the Italian Government relative to seaman's death. His body was repatriated back to the Philippines in April 2005.

Suspecting foul play, seaman's wife sought the assistance of the Philippine National Police (PNP) Crime Laboratory to conduct a forensic examination on the remains of the seaman and to investigate the cause of his death. The wife also requested the National Bureau of Investigation (NBI) to investigate the incident. After the investigation, the PNP Crime Laboratory and the NBI concluded that homicide cannot be totally ruled out.

Due to the foregoing, in June 2005, the wife, as beneficiary of the seaman, filed a claim for death compensation benefits under the POEA Standard Employment Contract and the Associated Marine Officer's and Seafarer's Union of the Philippines Collective Bargaining Agreement (AMOSUPCBA). She also demanded attorney's fees, moral, and exemplary damages. The company argued that they have no obligation to pay death benefits to the heirs of the seaman because the latter's death was self-inflicted and therefore exempted from the coverage of death benefits under the Philippine Overseas Employment Agency-Standard Employment Contract (POEA-SEC) and the AMOSUP-CBA. The company argued that seaman was involved in a drug smuggling activity and fearing that he would be arrested and would bring shame to his family, he committed suicide. To support their claim, the company attached an authenticated Forensic Report released by the Medical Examiner in Italy which stated that seaman committed suicide by hanging himself. The same report indicated that during the course of the autopsy, the seaman was found positive for cocaine. When his lifeless body was found hanging, two suicide notes were found by the Italian authorities. One was addressed to his wife and the other to the vessel's crew. The suicide note addressed to his wife stated that he committed suicide because he was implicated in a drug syndicate and he did not want to be jailed for the rest of his life. The second suicide note led to the arrest of the vessel's Deck Boy, who admitted his participation in the drug dealing operation. The note also pointed the Italian authorities to where the remaining cocaine and the proceeds from its illegal sale were being hidden on-board the vessel.

The Labor Arbiter ruled in favor of the company and denied the claim for death benefits. The Labor Arbiter sustained the company's claim that the seaman committed suicide, giving credence to the Forensic Report submitted by the Italian authorities concluding that his death was self-inflicted.

On appeal to the NLRC, death benefits were awarded to the heirs. The NLRC ruled that seaman's death was not proven to be self-inflicted.

The Court of Appeals sustained the award of death benefits and held that the Forensic Report issued by the Public Prosecutors Office in Livorno, Italy was "weakened" by the findings of the PNP and the NBI, which did not totally rule out homicide. The appellate court further did not give credence to the photocopies of the alleged suicide notes presented by the company for its failure to prove that the suicide notes were written by the seaman. Hence, it found that the company failed to discharge its burden of proving that seaman committed suicide, so as to evade its liability for death benefits.

### **The burden to prove suicide is on the employer**

The Supreme Court held that the death of a seaman during the term of his employment makes the employer liable to the former's heirs for death compensation benefits. This rule, however, is not absolute. ***The employer may be exempt from liability if it can successfully prove that the seaman's death was caused by an injury directly attributable to his deliberate or willful act.*** Hence, the heirs' entitlement to any death benefit depends on whether the employers' evidence suffices to prove that the seaman committed suicide, and the burden of proof rests on his employer.

### **The autopsy reports**

The Supreme Court noted that the findings of the Italian Medical Examiner that the seaman committed suicide were more categorical and definite than the uncertain findings of the PNP Crime Laboratory and the NBI that homicide cannot be totally ruled out. Excerpts from the PNP and NBI reports would disclose that both agencies were unsure if homicide or suicide was the underlying cause of the seaman's death.

The Medical Examiner appointed by the Italian Court was not merely limited to the autopsy of the remains of the seaman. The findings of the Italian Medical Examiner were made after he personally and carefully examined the place immediately after the incident. The medical examiner had the luxury of investigating the crime scene, the rope used for hanging, type of knot, temperature and position of the body when found. This is opposed to the findings of the PNP Crime Laboratory and the NBI which were based merely on an autopsy conducted and without the benefit of investigating the scene of the incident.

### **The suicide notes**

The Supreme Court held that the Court of Appeals failed to appreciate the suicide notes left by the seaman to his wife and to the vessel's crew due to alleged failure to prove that the notes were written by the seaman. The Supreme Court likewise did not give credence to the argument of the heirs that since the original copies of the notes were not presented, but mere photocopies, the same should not be considered by the Court. The Supreme Court held that it is settled that proceedings before the NLRC are not covered by the technical rules of evidence and procedure as observed in the regular courts.

The Labor Arbiter and the NLRC are directed to use all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law and procedure all in the interest of substantial justice.

The Labor Arbiter need not resort to the technical rules of evidence, in order to ascertain whether the notes were written by the seaman. The Labor Arbiter already found that the handwriting and the terminologies used in the suicide notes and that presented by the heirs are identical which would lead to the conclusion that the author of both is one and the same. The seaman wrote two suicide notes where he admitted his participations as a lookout in the operation in Spain and implicated a Deck Boy who eventually confessed as to his participation in the operations and eventually led the Italian authorities to where the other cocaine were being hidden on-board the vessel.

Since the Labor Arbiter had, after comparing the suicide notes and the letters presented by the respondents, concluded and determined that the letters were of the handwriting of the seaman, the appellate court should have considered these pieces of evidence, in determining whether the seaman committed suicide, as it explained the reason why he took his life. Further, the company was able to explain why the original copies of the documents were not presented during the proceedings before the Labor Arbiter. The reason for its nonproduction is that the notes were in the possession of the Italian Authorities as part of the evidence in their investigation and will not be released until such time as a final determination in said proceedings is made. The company's failure to submit the original copy of the suicide notes is, thus, not a ground for disregarding such note.

Moreover, the credibility and authenticity of seaman's suicide notes are also beyond doubt. In fact, the statements contained in the notes led to the investigation and arrest of the Deck Boy, who confessed as to his participation in the drug operations which eventually led the Italian authorities to where the remaining cocaine and proceeds thereof

were being hidden on-board the vessel. Since the information in the notes proved to be informative and useful to the Italian authorities, it would only lend more credence to its genuineness and truthfulness. Verily, it could only lead to the conclusion that the notes were written by no other person except the seaman. Since the petitioners were able to prove that the seaman committed suicide, death is not compensable and his heirs are not entitled to any compensation or benefits. It is settled that when the death of a seaman resulted from a deliberate or willful act on his own life, and it is directly attributable to the seaman, such death is not compensable.

*Wallem Maritime Services, Inc. and Reginaldo Oben/Wallem Shipmanagement Limited versus Donnabelle Pedrajas and Sean Jade Pedrajas; GR. No. 192993; Third Division; August 11, 2014; Supreme Court Associate Justice Diosdado M. Peralta, Ponente (Attys. Florencio Aquino and Charles Dela Cruz of Del Rosario & Del Rosario handled for vessel interests).*

-----  
*"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](mailto: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 & 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](mailto:mail@delrosario-pandiphil.com); [www.delrosariolaw.com](http://www.delrosariolaw.com)