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COMPENSATION FOR THE HEIRS

Can the heirs claim death benefits even if the seafarer died after his medical repatriation?

Yes, as pronounced in the case of *Canuel v. Magsaysay Maritime Corporation, et.al.* (G.R. No. 190161, October 13, 2014), the Supreme Court granted the claims for death benefits even though the seafarer's death happened after he was medically repatriated.

In *Canuel*, the seafarer was deployed as Third Asst. Engineer on board an ocean-going vessel for 12 months. While in the performance of his duties, he figured in an accident thereby injuring the right side of his body. He was brought to a hospital in China and was medically repatriated weeks later, and immediately admitted to a Philippine hospital. About a month after his admission, he passed away due to acute respiratory failure. After his autopsy, he was found to have died of lung cancer which the company doctor asserted to be non-compensable. When his heirs filed their complaint for death benefits, the arbiter and the NLRC ruled in their favor. On appeal, the Court of Appeals however, dismissed the complaint.

The Supreme Court reinstated the decision of the NLRC and ruled for the seafarer's heirs, applying Section 20 of the 2000 POEA Standard Employment Contract (POEA-SEC) which governs the entitlement of the seafarer's beneficiaries to death benefits. According to Section 20, two (2) requirements must be established, i.e., (1) the seafarer's death is work-related, and (2) that said death occurred during the term of his employment contract.

On the first requirement above, a "work related death" is one which resulted from a work-related injury or illness. A work-related injury is said to arise "in the course of employment" when it takes place within the period of the employment, at a place where the employee reasonably may be, and while he

is fulfilling his duties or is engaged in doing something incidental thereto. In the instant case, the seafarer suffered a work-related injury within the term of his employment contract when he had an accident while performing his duties on board as Third Assistant Engineer. The said injury, which is the proximate cause of his death, then led to the deterioration of his condition, his hospitalization in China, his repatriation and eventual admission to the Philippine hospital, and his acute respiratory failure which was declared to be the immediate cause of his death.

The Supreme Court, citing its previous ruling, also noted that compensability does not depend on whether the injury or disease was

pre-existing at the time of employment, but rather if the injury or disease is work-related or if his employment aggravated his injury, if indeed it was pre-existing during his employment.

On the second requirement for death compensability, the High Court pointed out that while the general rule is that the seafarer's death should occur DURING the term of his employment, the seafarer's death occurring AFTER his medical repatriation (which equates to the termination of his employment) due to a work-related injury or illness, constitutes an exception to said general rule based on a liberal construction of the 2000 POEA-SEC. As such, the phrase "work-re-

lated death of the seafarer during the term of his employment contract" should not be strictly interpreted to mean that the seafarer's work-related death precisely occurred during the term of his employment. Rather, it is enough that the seafarer's work-related injury or illness, which eventually causes his death, should have occurred during the term of his employment. If the laborer's death was brought about, whether fully or partially, by the work he had harbored for his master's profit, then it is but proper that his death be compensated. This interpretation is resorted to so as to avoid any undue prejudice to the worker and his heirs and in order that the State policy on labor protection be championed.

South Asia Gateway Terminals tops in South Asia, fourth in the world

BY KIMBERLY CHAVEZ FRIVALDO

Sri Lanka's first private container terminal operator, South Asia Gateway Terminals (SAGT), topped the ranking in South Asia and got the No. 4 spot in the world for Terminal Productivity by the *Journal of Commerce USA*.

Ports and Shipping Minister Arjuna Ranatunga received a ceremonial plaque presented by the Chief Commercial Officer Ted Muttiah and Commercial and Marketing Manager Dhasma Karunaratne. This is to recognize Sri Lanka's Container Terminal operational competence in the global arena.

"This is a very good example of Sri Lanka's capabilities,"

Minister Ranatunga said.

This government is dedicated in developing the right structures for business to continue doing business.

SAGT's berth productivity performance ranked among the best in the world by its 113 container moves per hour and an average 34 container moves per hour per crane. A vessel with a 1,000 container move count can be accom-

plished in less than nine hours of quayside dwell time, deploying an average of 3.3 cranes.

The Chief Commercial Officer noted that these high productivity benchmarks are achieved through the combined efforts of many stakeholders of the Port of Colombo. SLPA as the regulator and landlord is the essential part in ensuring a productive outline for high performance results.

