SPC Guiding Case No. 112: Astek Co., Ltd. (Application to Establish a Limitation Fund for Maritime Claims Liability)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Civil / limitation fund for maritime liability / accident principle / one accident / multiple accidents

Holding

Article 212 of the Maritime Law establishes the principle that the limitation of liability for maritime claims follows "one accident, one limit; multiple accidents, multiple limits." The key to determining whether there was one accident or multiple accidents is to analyze whether the accidents resulted from the same cause. If multiple accidents occurred due to the same cause and the chain of causation was not interrupted, they shall be found to constitute one accident. If the chain of causation was interrupted and a new accident occurred, a new independent accident shall be found to have been formed.

Basic Facts

Astek Co., Ltd. filed an application with the Tianjin Maritime Court, stating that its vessel "Ainong" had received claims for aquaculture damage compensation. For the non-personal injury or death losses caused by that accident, Astek Co., Ltd., as the shipowner of the vessel, applied to establish a limitation fund for maritime liability, with a liability limit of 422,510 Special Drawing Rights (SDR) plus interest from June 5, 2014 until the date of establishment of the fund.

Many aquaculture farmers, as interested parties, raised objections, arguing that Astek Co., Ltd. should establish separate limitation funds, and could not establish a single limitation fund for the entire voyage.

The court found: The owner of the vessel in issue, the Korean-registered "Ainong," was Astek Co., Ltd., and the gross tonnage of the vessel was 2,030 tons. On June 5, 2014, while the "Ainong" was sailing from Qinhuangdao to Tianjin Port for loading, it entered aquaculture areas in the waters of Changli County and Leting County, Hebei Province, causing aquaculture losses to the relevant farmers.

It was also found that the "Ainong" used British Admiralty Chart No. 1249 at the time of the damage accident in this case, and the chart had already marked that an aquaculture area was set up in the waters where the damage accident occurred, and had delineated the scope of the aquaculture area. The vessel in issue crossed the aquaculture area along a pre-set route for the voyage in issue.

It was further found that the aquaculture areas of Guo Jinwu and Liu Haizhong were about 500 meters apart, and the vessel's sailing time was about 2 minutes; the aquaculture areas of Liu Haizhong and Li Weiguo and others were about 9,000 meters apart, and the vessel's sailing time was about 30 minutes.

Judgment

On November 10, 2014, the Tianjin Maritime Court rendered Civil Ruling (2014) Jin Hai Fa Xian Zi No. 1: (1) granting Astek Co., Ltd.'s application to establish a limitation fund for maritime liability; (2) fixing the amount of the limitation fund at 422,510 SDR plus interest (interest from June 5, 2014 until the date of establishment of the fund, calculated at the one-year benchmark lending rate for financial institutions for the same period determined by the People's Bank of China); and (3) ordering Astek Co., Ltd. to establish the limitation fund in RMB or security recognized by the court within three days from the effective date of the ruling (the RMB

amount of the fund to be calculated according to the conversion method from SDR to RMB on the date the ruling takes effect). If the fund was not established within the time limit, it would be treated as a withdrawal of the application. Guo Jinwu and Liu Haizhong were dissatisfied with the first-instance ruling and appealed to the Tianjin High People's Court. On January 19, 2015, the Tianjin High People's Court rendered Civil Ruling (2015) Jin Gao Min Si Zhong Zi No. 10: dismissing the appeal and affirming the original ruling. Guo Jinwu, Liu Haizhong, Li Weiguo, Zhao Laijun, Qi Yongping, Li Jianyong, and Qi Xiukui were dissatisfied with the second-instance ruling and applied for retrial. On August 10, 2015, the Supreme People's Court rendered Civil Ruling (2015) Min Shen Zi No. 853, deciding to retry the case, and on September 29, 2015, rendered Civil Ruling (2015) Min Ti Zi No. 151: (1) revoking Civil Ruling (2015) Jin Gao Min Si Zhong Zi No. 10 of the Tianjin High People's Court; (2) revoking Civil Ruling (2014) Jin Hai Fa Xian Zi No. 1 of the Tianjin Maritime Court; and (3) dismissing Astek Co., Ltd.'s application to establish a limitation fund for maritime liability.

Reasoning

The Supreme People's Court held that Article 212 of the Maritime Law establishes the accident principle for the limitation of liability for maritime claims, namely "one accident, one limit; multiple accidents, multiple limits." The key to determining whether there was one accident or multiple accidents is to analyze whether the accidents resulted from the same cause. If multiple accidents occurred due to the same cause and the chain of causation was not interrupted, they shall be found to constitute one accident. If the chain of causation was interrupted and a new cause intervened, the new cause and the new accident constitute a new causal relationship, forming a new independent accident.

In this case, the British Admiralty Chart used by the "Ainong" clearly marked the scope of the aquaculture area, but the crew set the route into the aquaculture area, which itself constituted gross fault. The vessel in issue, foreseeing that the waters it would pass through might contain a large aquaculture area, should have strengthened its duty of lookout, ensured safe navigation, and avoided colliding into the aquaculture area and causing losses. According to the navigation track of the vessel in issue, the vessel actually sailed into the aquaculture area operated by Guo Jinwu. Given that the damage accident occurred at noon without the visual obstacles of nighttime, if the crew had prudently performed the lookout and navigation duties, it should have been able to notice the floating balls hanging on the sea surface marking the aquaculture products. In the circumstances where the Changli County Oceanic Bureau produced evidence proving that Guo Jinwu had suffered actual damage, it could be presumed that the crew failed to perform the duty of prudent lookout, leading to the occurrence of the first tortious act.

Based on the navigation track, the vessel subsequently entered Liu Haizhong's aquaculture area. Because Guo Jinwu's and Liu Haizhong's aquaculture areas were adjacent, about 500 meters apart, and based on the inertia of the vessel's motion and the rules of vessel navigation, the vessel in issue could not take reasonable measures to avoid Liu Haizhong's aquaculture area under the circumstances at that time, causing the occurrence of the second tortious act. From the perspective of cause, both damaging acts resulted from the crew's negligence in lookout before the vessel sailed into Guo Jinwu's aquaculture area, constituting the same cause, and the chain of causation was not interrupted. Therefore, the two tortious acts should be found to constitute one accident.

After leaving Liu Haizhong's aquaculture area and entering open waters, the vessel sailed about 9,000 meters for about half an hour before entering the aquaculture area of Li Weiguo and others and causing another damage accident. Before entering Li Weiguo and others' aquaculture area, the crew should have had relatively ample time to adjust their mental state of negligent navigation, and, foreseeing that there were still aquaculture areas ahead, should have further strengthened the duty of lookout to avoid causing further damage. The vessel in issue clearly failed to perform the duty of prudent navigation, causing the occurrence of the second damage accident. The two accidents were unrelated in terms of both time relationship and subjective state; the occurrence of the second accident was not caused by the natural continuation of the first accident, and there was no causal relationship between the two accidents. Astek Co., Ltd.'s claim that

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the crew's mental state of erroneous navigation did not change throughout the entire course of the accidents and that the chain of causation was not interrupted could not be established. Although the occurrence of the two accidents was due to the "same nature of cause," namely the crew's negligent navigation, they were not caused by the "same cause." Pursuant to the principle of "one accident, one limit," the vessel in issue should establish different limitation funds for the two accidents. The first-instance and second-instance courts failed to comprehensively examine the locations of the aquaculture areas, the causal relationship between the two accidents, and the subjective state of the parties, and found that the vessel in issue caused only one accident and permitted the establishment of one fund, which was erroneous and should be corrected in accordance with the law.

Relevant Legal Provisions

Article 212 of the Maritime Law of the People's Republic of China

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