

Personal Injury Bulletin

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for service and security

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Introduction

The club covers members' liability arising from death, personal injury and illness in a number of circumstances. Whilst the majority of the claims received by the club involve crew members, it also covers claims involving passengers and stevedores, personal injury claims arising out of collision and other third parties where the claim arises out of the operation of an entered ship.

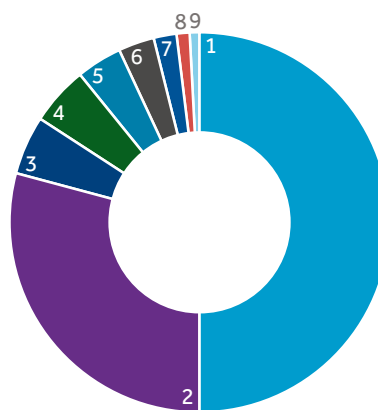
In this edition

- 3 The fighter, the show-off and the toenail: navigating the murky waters of maintenance and cure in the USA
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Personal injury claims account for almost 30% of notifications – the second highest after cargo-related claims.

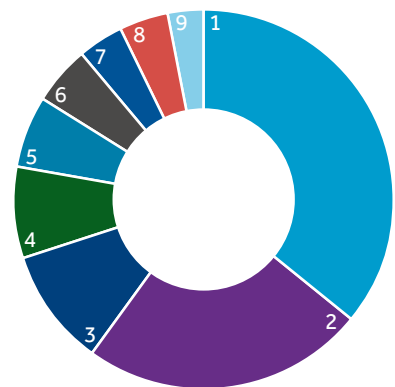
In terms of the total value of claims submitted to the club, this translates to a quarter of the club's total claims cost (capped at \$8m per claim).

P&I claims by claim type
2009–2014 number of claims



1 Cargo	50%
2 Personal injury	29%
3 Fixed and floating objects	5%
4 Other	5%
5 Fines	4%
6 Collision	3%
7 Pollution	2%
8 Damage to hull	2%
9 Wreck	<1%

P&I claims by claim type
2009–2014 value of claims
(capped at \$8m per claim)



1 Cargo	31%
2 Personal injury	25%
3 Fixed and floating objects	11%
4 Collision	8%
5 Pollution	8%
6 Wreck	5%
7 Damage to hull	4%
8 Fines	4%
9 Other	4%

Introduction continued

The scope of liability against ship owners in respect of personal injury claims has been steadily expanding. For example, where in 1846 the [Fatal Accident's Act](#) of the UK enabled for the first time dependants to sue for damages for the death of relatives caused by the negligence of ship owners, the [Maritime Labour Convention 2006](#) which came into effect in 2013 extends ship owners' obligations to include repatriation of crew for sickness, injury or death in the event of insolvency of the ship owners.

In this edition, both Rebecca Hamra's and Maria Pittordis' respective articles consider how the boundaries of shipowners' liabilities in respect of personal injury continue to be pushed and tested. Whilst Rebecca considers several hypothetical scenarios set against the context of claims in the USA, Maria shares with us her recent experience in successfully defending an owner's interests against claims arising from an illness caused by Norovirus on a cruise ship before the UK courts.

In tandem with rising global levels of compensation arising from personal injury and occupational diseases, Marco Mastropasqua discusses some recent trends in the Italian courts which indicate that the level of compensation for personal injury at work in Italy is on the rise.

Contract review

Given the limits of members' liabilities do not remain static, it is important that members review their crew contracts and their collective bargaining system and submit the same to the club for review periodically. The purpose and key features of this exercise are set out in the article by Richard Stevens and Jessica Canbas.

Managing Claims

When an injury or death at sea occurs, it is also important to consider ways in which the extent of the claim and the attendant costs can be contained.

It is well acknowledged that the level of compensation in personal injury claims in the USA can be considerable. Kirk Lyons' article highlights the importance of ascertaining the proper legal status and regime applicable to a particular claimant and the impact of doing so in respect of the levels of compensation ultimately recoverable by the claimant.

Augustine Liew and Eric Ho share with our readers what may be expected from a Singapore perspective and the steps a prudent shipowner ought to take when faced with a death onboard.

Richard Stevens and Karolos Mavromichalis demystify the extent of club support when handling a crew claim requiring repatriation and deviation of the ship.

These articles serve as a timely reminder to our members of the importance of utilizing the club's expertise in the area of personal injury as well as that of the lawyers who are appointed, where appropriate. A correct choice of lawyer can contain the cost of a personal injury claim.

Preventive measures and due diligence

The member themselves and the crew have a vital role to play in avoiding costly claims. Most accidents at sea occur due to human error which means that most of these incidents are preventable. Our club's loss prevention programme is particularly directed towards the promotion of safe working practices to avoid personal injuries. One example of the club's initiative in raising such awareness amongst crew is the 'Spot the Hazard' contest, the successful outcome of which is reported by Richard Bell.

Whilst the main focus of this edition is on the people at sea, two other groups of people can help to minimize members' exposure in respect of personal injuries. The first is the club's extensive network of correspondents as discussed in our interview with James Cross. The second is the directors and officers of our own members who, amongst others, owe a duty to ensure that a culture of safety and a safe working environment is and remains in place on their ships. Their duties of course extend to other aspects and Sarah McGurk writes on the importance of director's and officer's liabilities insurance.

My grateful thanks to each of our contributors and I hope you find this special edition an interesting read.