

Amiantit Yacoat Co v Kings Ocean Shipping Co Ltd

24 April 2015

Court of First Instance

CFI

Admiralty Action No 21 of 2013

HCAJ 21/2013

Citations: [2015] HKEC 645

Presiding Judges: Master J Wong

Phrases: Damages - assessment - goods damaged in course of shipment

Counsel in the Case: Ms Goh, of William K W Leung & Co, for both plaintiffs  
The 2nd defendant was not represented and did not appear

Judgment:

Master J Wong

Introduction

1. This is an assessment of damages by the plaintiffs against the 2nd defendant.

Background

2. Briefly, in 2012, the 1st plaintiff instructed the 2nd defendant to ship certain iron pipes from China to Saudi Arabia. Upon arrival, some of the pipes were found damaged. The 1st plaintiff then instructed surveyor for inspection and preparation of reports but could not recover damages from any of the defendants.

3. The 1st plaintiff later resorted to its insurer, the 2nd plaintiff who duly paid under the marine insurance certificate. They thereafter commenced the present proceedings in 2013 against all three defendants.

4. On 25 March 2013, interlocutory judgment was obtained by the plaintiffs against the 2nd defendant.

The Assessment

5. The plaintiffs proceeded with their assessment of damages. The matter went on its usual course, including discovery exchange of witness statements and expert reports. However, the 2nd defendant did not take any step in the assessment, including the substantive hearing before me, despite that due notice having been given throughout the whole process.

6. The plaintiffs' solicitor, Ms Goh appeared before me at the assessment. The 2nd defendant continued to be absent. Having considered all the evidence authorities and submissions before me, including in particular the uncontested surveyor reports for the plaintiffs, namely, the preliminary report dated 28 March 2012 and final report dated 22 October 2012, both by Crawford Saudi Arabia for Loss Adjusting & Surveying, on balance, I agree to accept the claim of damages in the sum of US\$ 304,944.17.

" C & F value of total loss pipes	=	US\$ 382,502.10
Repair charges for 693 pipes	=	US\$ 25,015.00
Total	=	US\$ 407,517.10
Less Policy Deductible	=	US\$ (5,333.33)
Less Salvage	=	US\$ (97,206.60)
Total claim	=	US\$ 304,977.17
		"

(paragraph 21 of Ms Goh's skeleton)

7. I also agree to accept the submissions made by Ms Goh that the limitation of damages by both the Hague-Visby Rules and the subject bill of lading do not assist the 2nd defendant as the claim by the plaintiffs herein does not exceed the limitations therein.

8. There will also be interest for the plaintiffs for the aforesaid sum US\$ 304,944.17 at the rate of 8% per annum from the date of writ herein until today and thereafter at judgment rate until payment.

9. There is no reason why the 2nd defendant should not pay costs of the assessment incurred by the plaintiffs. I also see fit to have it summarily assessed at \$110,000 on the hypothetical basis that the matter was handled by a solicitor with 5 years of post qualification experience.

(a)	Communications (\$3,000 x 10)	\$	\$ 30,000
(b)	Professional works (i) Documents (\$3,000 x 10)	30,000	
	(ii) Hearings (\$3,000 x 10)	30,000	60,000
(c)	Disbursements and others		20,000
			110,000

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