



Why Ambulance-Chasers are Hounding the Filipino Seafarers?

By: Attorney Imelda L. Barcelona

National Labor Relations Commission (NLRC) data from 2011 to 2013 showed that more Seafarers file claims against their Employers/Shipowners than Landbased Migrant Workers. According to Philippine Overseas Employment Administration (POEA) records, Seafarers deployed in 2011 and 2012 comprise less than 25% of total Migrant Workers deployed for the said period.

To illustrate, the ratio of number of Migrant Workers per case filed with NLRC is:

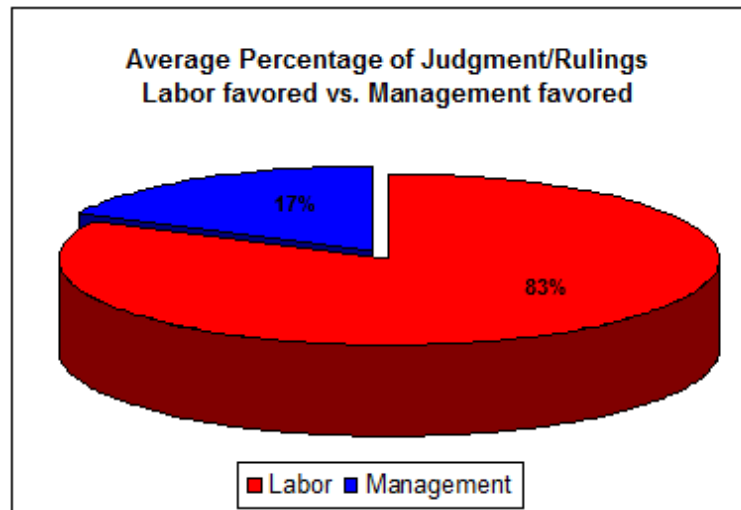
	2011	2012
Seabased	122.1	116.1
Landbased	412.1	460.1

This means that for every 122 Seafarers deployed one (1) Seafarer filed a claim before NLRC in 2011. It went down slightly in 2012 due to the deepening financial crisis in Europe.

Growing industry perception that NLRC rulings in favour of Employer/Shipowners are on the rise is debunked by the following data, viz;

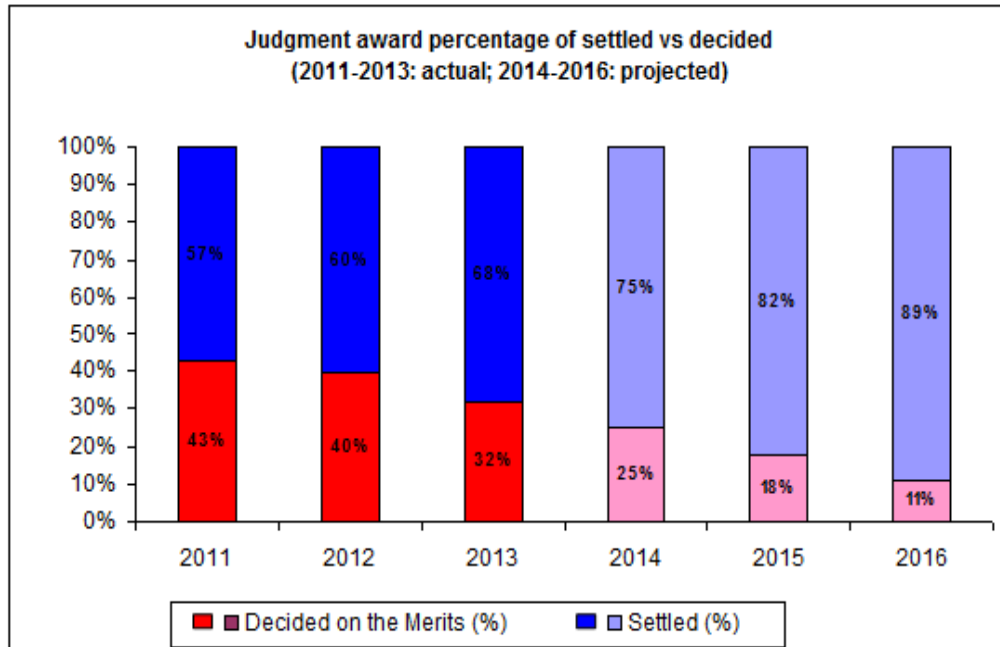
Rulings in favour of:		2011	2012	2013	Average
Seafarers:	Number	2,389	2,617	2,654	2,553
	(% total)	79%	82%	86%	83%
Shipowners	Number	625	558	432	538
	(% total)	21%	18%	14%	17%
	Total	3,014	3,175	3,086	3,092

From 2011 to 2013, cases won by Shipowners dropped by – 7% (21%-14%). The average rate on percentage cases decided in favour of Shipowners from 2011-2013 is -5%. Following the trend from 2011 to 2013 there is decreasing number of claims decided in favour of the Shipowners. On the average, only about 17% of claims per year is decided in favour of Shipowners.



Data on the mode or manner of how NLRC disposed the claim showed that over 99% are settled. NLRC has no available data on how settlement was proffered. Was it by Walk-in i.e. NLRC intervention is limited to verifying/authenticating the terms of the out-of-court agreement between the seafarer and the Shipowner? Was it during NLRC mandatory conciliation hearings with NLRC actively involved in brokering amicable settlement between the parties?

Judgment Thru:	2011	2012	2013	Average
Settlement	2,369	2,598	2,632	2,533
	99.16%	99.27%	99.17%	99.20%
Decision on the Merits	20	19	22	20
	0.84%	0.73%	0.83%	0.80%
Total	2,389	2,617	2,654	2,553.33



The data supports the proposition that Seafarers and Employers/Shipowners can resolve their disputes on their own without intervention of third parties. Vesting the parties with the power to determine and dictate how they want to resolve their dispute can be a way to reduce claims filed before the NLRC.

NLRC data on Judgment Award, awards given on Seafarers' claims juxtaposed against awards in claims filed by Landbased workers showed a wide yawning gap between two, viz;

	Seabased			Landbased		
	2011	2012	2013	2011	2012	2013
Settlement	1,051,651,061.66	1,261,528,218.36	2,443,906,723.00	262,912,765.42	313,858,058.79	610,976,680.75
Decision on the Merits	778,410,915.83	832,576,958.63	1,130,185,852.57	126,718,056.06	137,067,417.53	183,983,743.44
Total	1,830,061,977.49	2,094,105,176.99	3,574,092,575.57	389,630,821.48	450,925,476.32	794,960,424.19

Average (2011-2013)		
	Seabased	Landbased
Settlement	1,585,695,334.34	395,915,834.99
Decision on the Merits	913,724,575.68	149,256,405.68
Total	2,499,419,910.02	545,172,240.66

The awards given by NLRC in Seafarers' claims is 358% more than the awards given by NLRC to Landbased workers' claims.

From 2011 to 2012, claims paid during settlement increased by 2.78%. From 2011 to 2013 the amount increased by 10.91%. If we follow this trend, you will note that claims paid thru settlement increases at an average rate of 6.84% per year. Assuming that the average rate of increase will be constant for the next three (3) years, the expected claim paid during settlement will be almost 89%. Only 11% of claims will be paid based on decisions on the merits.

The average number of Seafarers' claims for 2011 to 2013 is 2,533.33. The amount paid for these claims is a staggering **Php 2,499,419,910.02 or @ 43.50** (foreign exchange rate) amounts **Usd 57,457,929.00.**

The huge money awards expected in representing Seafarers in suing their employers is like bowl of honey to a bee. It is a very lucrative practice. Big money for little work. Taking 40-60% of the claim without writing a single pleading is certainly a great way to practice law.

So, to answer the question why ambulance chasers are hounding the Filipino Seafarers? Short answer – res ipsa loquitur (the thing speaks for itself.)

Attorney Imelda L. Barcelona is the President of Lubeca Protection & Indemnity Phils., Inc., a crew risk management company based in Manila, Philippines. Her knowledge in handling and managing potential and actual claims filed by Filipino Seafarers is drawn from her over 20 years of experience in shipmanning and crewmanagement as President/CEO of Agile Maritime Resources, Inc. She is also the incumbent President of Women's International Shipping and Trading Association (WISTA) Phils.

NLRC – a quasi judicial body under the Department (Ministry) of Labor and Employment (DOLE) authorized by law to hear and decide money claims filed by Filipino Migrant Workers.

POEA – agency under DOLE in charge of implementing the Overseas Employment Program of the government and protecting the rights of Filipino Migrant Workers.