



Athens Convention liability is adequate

From Geoffrey Lucas

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SIR, I refer to James Brewer's article on page 3 (Lloyd's List November 4), in which he quotes Mr William O'Neil as saying: "The limits of liability in the 1974 Athens Convention are no longer adequate to meet the needs of the international community," and: "It goes without saying that compensation in adequate measure must be provided for loss of human life and physical injury for all passengers travelling by sea."

Mr. Brewer advises that "regional economic integration organisations" will be able to sign "the proposed new protocol" with "the same rights and obligations as a (nation) state" by which I assume he means such organisations as the European Union rather than the United Kingdom?

He also advises that exemption from the new \$325,000 per passenger liability (when ratified) will be granted to the ship operator, where he can "prove that the incident resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character or was wholly caused by an act or omission with intent to cause the incident by a third party".

If I am reading all this correctly, I assume that it means that ship operators will not be liable for death or injury caused to a passenger by a terrorist, a natural disaster or a collision; but that they will continue to have to prove that the death or injury was not even partially contributed to by their fault or neglect.

If they fail to prove this, they could be liable for up to five or eight times as much as they are at present.

I should like to ask someone to enlighten me as to why the current limits are "no longer adequate to meet the needs of the international community"?

Why should compensation for deaths such as occurred on the Herald of Free Enterprise for example be worth five to eight times as much as they were in 1974?

While it is clearly a truism that those responsible must be liable to pay "adequate compensation", how are we to establish what is "adequate" internationally?

Is adequate compensation at sea any different to in the air, on a train or a bus? Or is it different when travelling to when in a building? For example, if one were injured by a fire in a shop, office or theatre, should one not be entitled to comparable compensation to a similar injury on any form of transport?

I remain deeply concerned that well-meaning bureaucrats are paving the road to economic sea travel with unacceptably hellish financial hurdles.

On page 6 of your same issue, Professor Rosaeg points out that it is not unusual today for an aircraft to be insured for \$2bn, compared with which the new compulsory insurance on ships will be less. (At \$325,000 each, it would indeed take 6000 passengers to reach this figure, so why is aircraft passenger insurance so high?)

I fully sympathise with his point that an international standard set by IMO is far preferable to unilateral regulations imposed by eg Brussels; but why should the levels be so high? Do they truly compare with the cover in other comparable situations apart from air travel?

And what of the question of double insurance? If a passenger's life is already insured, why should the carrier insure it as well?

Would both policies pay out? Is it equitable that the beneficiaries should receive more than the amount at which the deceased valued herself/himself?

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