

THE issue of crew injury is on the increase with legislation only set to exacerbate the problem, according to the UK P&I Club.

In 1999, personal injury claims on the UK Club overtook cargo claims as the largest single category by value, it says.

Last year they accounted for more than 30% of claims costs and there is every expectation they will continue to increase.

There has been political pressure on some conventions to increase liability limit, for example, the Athens Convention relating to personal injury. This has led to a stepping up of civil and criminal legislation to penalise operational accidents, some leading to higher levels of crew compensation

Associated costs of legal defence, technical fees and expenses tend to push up total costs.

The club says increasingly generous crew contracts provide more in terms of compensation for temporary and permanent disability while advances in medical technology have increased the scope for treatment, intensive care and rehabilitation.

A club spokesman says: "Awareness of the compensation available to seafarers in the United States, Australia and the European Union has spread to most maritime countries.

"So has the practice of the courts superseding established liability limits with higher compensation awards.

"Developments in two leading maritime countries — Greece and the Philippines — exemplify the existing climate.

"Two compensatory systems apply to Greek and foreign seafarers on board Greek flagged, owned or managed vessels, irrespective of any contract of employment agreement for the application of foreign law.

"Under Law 551, a strict liability system applies to injuries or deaths from accidents occurring during a seafarer's employment, irrespective of employer fault.

"Non-fault compensation includes a lump sum, calculated in relation to victualling allowances and prospective lost earnings, increasing with length of time away from work and the extent of permanent disability."

There is also a second Greek system based on civil law provisions relating to what is described as "wrongful" death and injury.

When owners or their employees are at fault, compensation is much greater than under strict liability law.

If a breach of safety regulations by the employer or his employees is involved, an injured seafarer or the family of someone who has been killed is entitled to civil law damages, both general and moral.

"The Greek Civil Code gives this right to the injured seafarer, his widow, children, parents, siblings, grandchildren, father- or mother-in-law and fiancée," explains the spokesman.

"Calculations for such damages are up to courts' discretion.

"Factors include the circumstances of the seafarer's death, age, degree of blame and claimants' financial circumstances.

"Not surprisingly, claims are often very high."

The market has monitored two recent decisions of the Supreme Court in the Philippines involving rulings that crew members designated unfit for work for 120 days or more should be regarded as being totally or permanently disabled.

The decision would entitle them to 100% compensation under the POEA Standard format, a sum equivalent to \$60,000.

The spokesman adds: "The UK Club makes recommendations to manage and avoid such claims.

"These include notifying the club or its correspondents in Manila of repatriated sick or injured seafarers immediately to facilitate examination and treatment, monitoring doctors' work, approving medical treatment or surgery without delay, obtaining regular reports on crew members' progress and longer- term assessments about temporary and permanent disability and treatment.

"The UK Club's Pre-employment Medical Examination Scheme helps to screen out individuals who are unfit for employment.

"PEME, which operates to significantly higher standards than most countries require, has processed around 110,000 applicants through authorised clinics around the world.

The incidence of crew members falling ill and costing substantial repatriation, substitution, medical and sickness wage costs — and a possible further \$60,000 in disability compensation in the Philippines — is significantly lower among candidates examined under PEME's auspices."

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