

## **THE SHIP OWNER'S LIMITATION OF LIABILITY** **in the Egyptian maritime commercial law No. 8/ 1990**

**By Mr. / Usama Soliman**

Advocate before Supreme Court

The precept of the ship owner's limitation of liability is considered one of the most prominent and most important precepts of the maritime law, that all maritime legislations follow, whatever difference in their organizations there may be.

The international conventions also adopt it since Brussel convention concerning the unification of some legal rules dealing with the ship owners' limitation of liability ratified on August 25, 1924, through Brussel convention 1957, to London convention 1976.

Egypt has agreed to adhere to London convention 1976 and applied it on July 1, 1988 and the Egyptian maritime commercial law No. 8/1990 follows it to a great extent on organizing the ship owners' limitation of liability in Articles from 81 to 91, and introduces some amendments upon them.

We will discuss the provisions of the ship owner's limitation of liability in the maritime commercial law from the viewpoint of: the range of this limitation of liability, the lapse of the right of limitation of liability, and the termination of the liability case.

## **What is the Range of the limitation of liability?**

### **a. Who are the beneficiary persons of the limitation of liability?**

The provisions of limitation of liability applies to the ship owner Charterer (Art. 81/1), the shipwright, the lessee, the maritime escort director, the insurer and the persons who have extended services directly concerning the ship rescue operations , the shipmaster , the shipmen and other subordinates , concerning the performance of their jobs ( Art. 91/1).

### **b. What are the Debts subject to limitation?**

**Article 81 defines in its text the debts as follows:**

- (1) The ship owner has to limit his liability of any sort with the sums dictated in section (a) of Article 83 of this law if the debt emerged from one of the following reasons:
  - (a) Damages resulted from the ship to the port constructions, docks, water paths or navigation auxiliaries.
  - (b) Physical injuries or material damages occurring on board the ship, damages directly related to maritime navigation or the ship operation.
- (2) The ship owner may adhere to the limitation of liability in the previous cases mentioned in the above section (b), even though the debt is in favor of the state or a public person ; the adherence to the limitation of liability is not considered admission of them .

### **c. What are the Debts that the limitation of liability does not apply to?**

Article 82 excludes from the range of the limitation of liability some debts that the liability there of are still absolute. These debts are:

- (1) Debts arising from the floating of the sinking, run aground or deserted ship and lifting its wreck, its cargo or anything found on it.
- (2) Debts arising from the rescue of the ship.
- (3) Debts arising from sharing in the joint maritime losses.
- (4) Rights of the shipmaster, shipmen, and all board the ship or extending services related to it , and the rights of the heirs of these persons and their successors .
- (5) Nuclear damages or damages stemmed from oil or other materials pollution .

### **What is the limitation of liability ?**

The maritime commercial law has dealt with the limitation of liability in Articles from 83 to 88, defining the maximum limit of the liability , how to calculate these limitations and the rules of distributing these sums of maximum limitations to the debtors .

#### **a. What are the maximum limitations of liability?**

The liability is defined , whatever its sort may be , according to the gross tonnage of the ship and the sort and nature of the damage . That is why Article 83/1 distinguishes between the physical injuries and all other damages .

- (1) As for the cases arising from the physical injuries , the liability is limited to six hundred thousand pounds , if the gross tonnage of the ship does not exceed five hundred tons .  
If the gross tonnage exceeds this amount , there must be added to the limitation liability the sum of three hundred and fifty pounds per each excess ton .
- (2) As for cases arising from other damages , other than the physical injuries , the liability is limited to three hundred thousand

pounds , if the gross tonnage of the ship does not exceed five hundred tons . If the gross tonnage exceeds this amount , there must be added to the limitation liability the sum of one hundred and fifty pounds per each excess ton .

### **How is the maximum limitation of liability calculated ?**

The maximum sums that limit the liability have to be calculated on the basis of independence of each compensation for each accident .

The Egyptian legislator has defined the liability of the ship owner differently from the foreign legislations that adopt the provisions of London convention 1976 - to be paid in Egyptian currency , with the same amount mentioned above .

Then , the legislator demonstrated how to distribute the sums of the maximum limitations , and the procedures of the limitation of liability (Articles from 83 to 87 ) .

### **When will the Right of the limitation of liability lapse ?**

Article 89 states that : “ The ship owner cannot adhere to the limitation of liability if the plaintiff proves that the damage has taken place because of the action or the abstention of the ship owner or his delegate with the intension to cause damage or his omission associated with understanding that damages may occur”.

### **When will the case of liability terminate ?**

The case of liability presented against the ship owner terminates by the pass of two years from the date of the act that brought about the liability (Art. 90/1).

---

This article provides for a general overview only and must not be relied upon as constituting advice in any specific case. Advice should always be sought before taking steps in proceedings- For Further information pls. Contact Mr. U. Soliman