When common sense prevails: 100% liability finding in a three-ship collision in the Suez Canal

The *Panamax Alexander*, *Sakizaya Kalon* and *Osios David*

On 5 October 2020, in his last judgment in the Admiralty Court, Justice Teare handed down his decision[1] on a consolidated action for a collision involving three laden bulk carrier vessels transiting the Suez Canal. The Judge ruled that one of the three, the *Panamax Alexander* (PA), was solely to blame for the collisions between herself and the *Sakizaya Kalon* (SK) first, and then between both ships and the *Osios David* (OD).

PA was the eighth and last vessel in the southbound convoy that had been halted about two hours before the first collision when the first vessel in the convoy, having suffered an engine breakdown, blocked the canal. That caused all the following vessels in the convoy to take emergency mooring and/or anchoring action within the canal. OD and SK, the convoy's sixth and seventh vessels respectively, managed to stop and securely moor between kilometer (KM) 151 and KM 152 alongside the canal's west and east banks, respectively, about 15 minutes before the first collision, which occurred at around 19.48 hours when PA collided with SK. Both vessels then drifted downstream and collided with OD. The three ships were "locked" together for a few minutes with two sets of collisions taking place within a period of about 20 minutes, SK's stern with OD's stern, PA's bow with OD's bow, and SK's bow with PA's stern, before they managed to separate.

The Admiralty Judge held that PA was at fault in failing to appreciate that there was a risk of collision and, as result, failing to moor earlier in time in order to avoid that risk of collision. These were causative breaches of Rules 5, 7 and 8 of the International Collision Regulations (Colregs). He also held that, having failed to moor earlier and having then cleared submarine cables in the vicinity, PA failed to drop an anchor as part of a controlled mooring operation. This was a further breach of Rules 5, 7 and 8 and contributed to the first collision.

Further, the Judge found that OD was at fault in that she had failed to inform SK and PA behind of her intention to moor but such fault had no causative potency (OD's duty to inform was first and mainly to SK immediately behind, but SK had already stopped before the first collision).

Further, the Judge held that "*the first collision at 1948 not merely provided the opportunity for the later collisions but constituted the cause of*" those subsequent collisions and recognized the difficulties faced by the master of SK and of OD on the horns of a dilemma created by the fault of PA.

Accordingly, PA was found wholly responsible and liable for all the collisions.

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[1] *The owners of the vessel SAKIZAYA KALON and the owners of the vessel PANAMAX ALEXANDER, and the owners of the vessel OSIOS DAVID* [2020] EWHC 2604 (Admlty).

Comment

This is one of the rare cases where 100% liability was attributed to only one of the colliding ships (and for a three-ship collision, even rarer).

An unusual feature and finding in this case is that the fault causative to the collision occurred more than an hour before the collision. This decision, therefore, is also welcome clarification and guidance on the duties of vessels in a convoy sailing the Suez Canal. It is implicit in the decision that, once in the Suez Canal convoy, risk of collision attaches and all pertinent duties to the other convoy vessels, ahead and astern, are applicable. Indeed, prudent seamanship, as well as common sense, would dictate the need for early rather than late action.

The decision also provides helpful guidance to admiralty law practitioners and the shipping community as a whole on the legal causation approach in case of multiple collisions. It is also a reconfirmation that the Admiralty Court would approach questions of legal causation, fault attribution and liability apportionment in a broad common-sense way.

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