

# ***THE ASSOCIATED SHIP CONCEPT***

---

## ***A SUPER BROAD INTERPRETATION***

**Abraham Stern , LL.M.**

**PACHECO COTO**

# THE INCA MAIDEN AND THE SEMINOLE PRINCESS



# FACTS

1. On 28 December, 2012, the M/V INCA MAIDEN was berthed at the Port Aleman pier, in Limon, Costa Rica, conducting discharge operations of a cargo of steel ingots stowed in packs.
2. The local stevedores had a gang of 4 men in the hold, 4 men ashore, one winch man and a foreman. At least part of the gang, including the deceased, had already been working for over 24 hours.
3. At 08.03 hours on that day, Carlos Andrey Ewin Briceño, of 28 years of age, and another 3 stevedores, were discharging steel ingots from what police refer to as “the ship’s middle hold”.
4. Discharge was being conducted using the ship’s winch from which stevedores hang a spreader bar with chains on each side that ended in lasso-type wires that lassoed each end of the ingots.



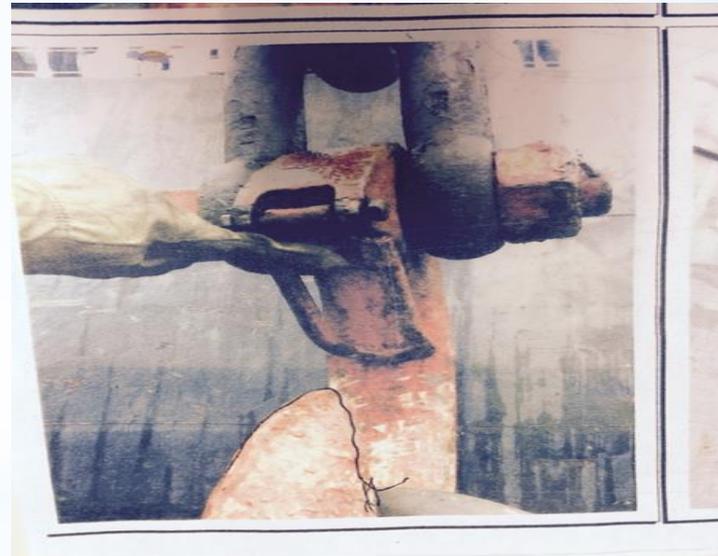
# FACTS

5. Witnesses all declared to the police that the spreader-bar wire that hang the spreader bar from the ship's crane's hook became loose, and the spreader bar fell on Carlos Andrey Ewin Briceño, killing him instantly. The following picture shows how the spreader bar ended



# FACTS

6. Many stevedores were called to the scene, even some that were not on duty or attending M/V INCA MAIDEN'S operations. Amongst them, the Supervisor who declared that the safety latch on the hook of the ship's crane, was "loose, or displaced, or damaged".



The photographs clearly depict a non-working safety latch; this is consistent with the testimony of the other 3 stevedores of how the accident occurred when they testified that the spreader bar's wire came out of the hook and the spreader bar fell on the deceased.

# FACTS

7. Five days after the incident, the M/V INCA MAIDEN sailed free and the survivors of the victim did not even try to arrest the vessel.

8. Less than a year later, the M/V INCA MAIDEN is decommissioned (Broken up) and it was sold for scrap metal.

<b>IMO number :</b>	<b>8520575</b>	
<b>Name of ship :</b>	<b>INCA MAIDEN</b>	<b>(during 1998)</b>
<b>Call sign :</b>	<b>DUMD</b>	
<b>MMSI :</b>	<b>548457000</b>	
<b>Gross tonnage :</b>	<b>22531</b>	<b>(during 1986)</b>
<b>DWT :</b>	<b>22133</b>	
<b>Type of ship :</b>	<b>General Cargo Ship</b>	<b>(during 1986)</b>
<b>Year of build :</b>	<b>1986</b>	
<b>Flag :</b>	<b>Philippines</b>	<b>(since 01/11/2005)</b>
<b>Status of ship :</b>	<b>Broken Up</b>	<b>(since 25/03/2014)</b>
<b>Last update :</b>	<b>10/06/2014</b>	

# FACTS

9. On 2014, the mother and daughter of the deceased retained our services to file a claim for the wrongful death of Mr. Briceño.

10. Our first problem: The vessel no longer exists.

11. After a detailed investigation we found out that the INCA MAIDEN was managed by a Corporation in New York. The same corporation was registered as the Ship Manager of another 78 vessels. However, the 78 vessels had a different registered owner.

78 vessels = 78 Corporations = 1 Manager

12. In an attempt to secure a future judgment, we tried to grasp a Rule B Attachment in New York to no avail.

13. **Then we found CHILE**

# CHILEAN LEGISLATION ON SHIP ARREST

1. A wrongful death (in any jurisdiction) is treated as Privileged Maritime Claim.
2. Any party with a privileged maritime claim may request the competent court to arrest an offending ship or its sister ship.
3. Under Chilean Law, a sister ship is: “any vessel under the same ownership, operation, administration or **MANAGEMENT**” (ART. 1234 Commercial Code)
4. On October 2014, the vessel M/V SEMINOLE PRINCESS is arrested as a precautionary measure in a Chilean Port, under the cited Management Rule.
5. 3 days latter, the P&I Club issues a Letter of Undertaking in the amount of \$550,000.00.
6. As of today, the merits of the case are being heard in a Costa Rican Court.

# ANOTHER AMAZING FACTS ABOUT THE MARITIME LAW IN CHILE

1. Usually it takes one to four days to arrest a vessel.
2. According to Chilean law on ship arrest, the local court must issue it's substantial decree granting (or denying) the arrest within 24 hours after submission of the request.
3. Regarding costs: There are no court costs for an arrest request; bail may be required.
4. Wrongful arrest is not regulated by local law. The affected party claiming a wrongful arrest must follow the general rules of a civil tort case (a 4-year case).