



Punitive damages not available to an injured seaman asserting unseaworthiness cause of action under US law

US Supreme Court decides that an injured seaman may not recover punitive damages, i.e. monetary awards intended to punish a defendant, for injuries caused by the unseaworthy condition of a vessel. The decision aligns the remedies available under general maritime law (common law), with those available under the Jones Act (statutory law) and eliminates uncertainty for shipowners, employers and their liability insurers when assessing a seaman's claims for injury.

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On 24 June 2019, the US Supreme Court issued its opinion in *Dutra Group v. Batterton*, 588 ____ (2019), holding that an injured seaman may not recover punitive damages, i.e. monetary awards intended to punish a defendant, for injuries caused by the unseaworthy condition of a vessel.

The Court's decision resolved a split between the US Fifth and Ninth Circuits, where the Fifth Circuit held in *McBride v. Estis Well Serv., LLC*, 768 F.3d 382 (5th Cir. 2014) (*en banc*) that punitive damages were not available for unseaworthiness actions, whereas the Ninth Circuit found in *Batterton* that such damages were appropriate. 880 F.3d 1089 (9th Cir. 2018).

Christopher Batterton worked as a deckhand on vessels owned and operated by the Dutra Group. According to his complaint, he was injured when his hand was caught between a bulkhead and a hatch cover that had blown open as a result of unventilated pressurized air. Among other things, he sued Dutra for compensatory damages, asserting a negligence cause of action under the Jones Act, and an unseaworthiness cause of action under general maritime law. He also sued for punitive damages under the unseaworthiness cause of action.

Finding no historical basis for allowing punitive damages for unseaworthiness actions, the Supreme Court went on to note that "the Federal Courts of Appeals have uniformly held that punitive damages are not available under the Merchant Marine Act of 1920 (Jones Act)." *Opinion* at 14. The Court observed that allowing recovery of punitive damages for unseaworthiness when such damages are not available under the Jones Act would violate the Court's command in *Miles v. Apex Marine Corp.*, 498 U.S. 19, 33 (1990), that "federal courts should seek to promote a 'uniform rule applicable to all actions' for the same injury, whether under the Jones Act or the general maritime law." *Opinion* at 15.

The Court also rejected the argument that punitive damages for unseaworthiness are justified under the maritime doctrine that encourages special solicitude for the welfare of seamen. The Court observed that in light of more recent developments in the roles now played by the Judiciary and the political branches in protecting seamen, the historical doctrine "has only a small role to play in contemporary maritime law" and is "not sufficient to overcome the weight of authority" indicating that punitive damages are unavailable for unseaworthiness actions. *Opinion* at 18.

The practical effect of the Court's decision is to align the remedies available under general maritime law (common law), with those available under the Jones Act (statutory law). This eliminates uncertainty for shipowners, employers and their liability insurers when assessing a seaman's claims for injury. A seaman remains entitled to recover compensatory damages for injuries incurred as a result of the unseaworthiness of the vessel, and/or the negligence of his or her employer but is not entitled to recover punitive damages for either cause of action.

It is important to note, however, that the Court's decision in *Dutra Group v. Batterton* does not alter the Court's previous holding in *Atlantic Sounding Co., v. Townsend*, 557 U.S. 404 (2009), allowing recovery of punitive damages for the willful and wanton failure to pay maintenance and cure, i.e., living expenses and medical care until the seaman reaches maximum medical improvement for an illness or injury that manifests, regardless of fault, while in the service of a vessel.

Which means, in sum, that under US law a seaman who is injured in the course of his or her employment, or becomes ill while in the service of a vessel, can recover: 1) compensatory damages caused by an unseaworthy condition of the vessel and/or the negligence of his or her Jones Act employer; and/or 2) punitive damages for the willful and wanton failure to pay maintenance and cure.