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Sealed container liability explained

Dr Reyadh Al Kabban gets into the details surrounding owner/operators liability when it comes to sealed containers.



The liability of the Maritime Carrier in relation to the transportation, delivery and discharge of cargo in sealed containers is governed by Article 258, 272 and 275 of Federal Law No. 26 of 1981 regarding the UAE Maritime Commercial Law. The UAE Maritime Commercial Law does not differentiate between the transportation of cargo in general from transportation of cargo in sealed containers.

The law clearly states that the Maritime Carrier will be liable for any damage or loss caused to the cargo from the date on which it has been handed over to the carrier by the shipper, during the course of the maritime voyage until the delivery of cargo to the consignee. The UAE Maritime Commercial Law imposes duties upon the Maritime Carrier to exercise abundant care and caution while performing its duties.

Pursuant to Article 272 of the UAE Maritime Commercial Law, the Maritime Carrier of the cargo is under duty to ensure that his vessel is seaworthy and contains adequate

provisions including proper storage cabins for the storage, preservation and safe transportation of the shipped cargo. The shipper is also expected to pay special attention ensuring that proper measures are adopted to load, stack, arrange, move, store, unload and deliver cargo.

The Maritime Carrier is also expected to exercise due diligence in issuing the Bill of Lading. While preparing the Bill of Lading, the Maritime Carrier must compulsorily check the cargo being loaded on the vessel and verify whether or not the description of the cargo stated in the Bill of Lading tallies with the actual cargo loaded on the vessel.

The Maritime Carrier is expected to express its reservations concerning the Shipper's declaration of the cargo being transported if it is of the opinion that the description provided by the Shipper is inadequate. The Bill of Lading is proof of the details of the cargo loaded to the vessel together with their value and the Maritime Carrier must ensure that the contents of the Bill of Lading are accurate. If the Maritime Carrier is unable to verify the

contents of the cargo loaded on the vessel, the Maritime Carrier is required to engage the services of a surveyor/assessor in order to ascertain the nature of cargo being shipped together with their value, even in the sealed container.

The Maritime Carrier and its insurance company shall not be exempted from liability of delivering the cargo in a damaged state as the Maritime Carrier is at all times expected to exercise abundant care and caution while shipping cargo and ensuring that the cargo shipped tallies with the description of the cargo stated in the Bill of Lading. Article 379(2) of the UAE Maritime Commercial Law states that the insurer shall be liable for damage to insured objects resulting from the faults of the captain or the crew.

In Cassation no. 496/2004 (Commercial), the Dubai Court of Cassation ruled that the transportation of cargo in a container is not different from the transportation of cargo in regular ways.

Therefore, in the event of any loss of or damage caused during the transportation of cargo in a sealed container, the Maritime Carrier shall be held liable. ●

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