

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(ADMIRALTY JURISDICTION)**

Admiralty Suit No. 80 of 2016

Capt. Kamrul Hasan and others

Plaintiffs

-Versus-

M.T. FADL-E-RABBI and others

Defendants

Mr. Rakibul Hasan, Advocate

...For the plaintiffs

None

... For the defendants

Heard on: 13.05.2025

Judgment on: 22.05.2025

Present:

Mr. Justice Zafar Ahmed

This is a suit in *rem* against the defendant No. 1 vessel M.T. FADL-E-RABBI and in *personam* against the owners of the vessel, Managers/Operators of the vessel and others for a decree for USD 3,36,983.09 equivalent to BDT 2,64,86,812.68 (calculated @ 1 USD =78.60 BDT at the time of filing of the suit) against the principal defendants jointly and severally which includes the arrear salary, wages and other allowances of the plaintiffs.

Plaintiffs are Bangladeshi Nationals and were the employees of the defendant No. 1 vessel M.T. FADL-E-RABBI, IMO No. 9078177, Flag: Panama (hereinafter referred to as the ‘defendant vessel’).

Plaintiff Nos. 1 and 2 are the Ex-Master, plaintiff Nos. 3 and 4 are the Ex-Chief Officer, plaintiff No. 5 is the Ex-2nd Officer, plaintiff No. 6 is the Ex-3rd Officer, plaintiff No. 7 is the Ex-Deck Cadet, plaintiff No. 8 is Ex-Chief Engineer, plaintiff Nos. 9 and 10 are the Ex-2nd Engineer, plaintiff Nos. 11 and 12 are the Ex-3rd Engineer, plaintiff No. 13 is Ex-4th Engineer, plaintiff Nos. 14, 15 and 16 are Ex-Oiler, plaintiff No. 17 is Ex-Os and plaintiff No. 18 is Ex-2nd Officer of the defendant vessel M.T. FADL-E-RABBI.

Defendant No. 1 is the vessel M.T. FADL-E-RABBI. Defendant No. 2 is Eden Line Limited who is the registered owner of defendant No. 1 vessel, defendant No. 3 is the owners and parties interested in the vessel, defendant No. 4 is Panam Ship Management Ltd. who is the ICM Manager of the defendant No. 1 vessel, and defendant No. 5 is ED Tankers Limited who is the local agent of the defendant No. 1 vessel. Proforma defendant Nos. 6-11 have been impleaded in the suit to give effect to the orders of this Court passed from time to time in connection with the suit.

It is stated in the plaint that all the plaintiff signed the standard seafarer employment agreement with defendant No. 2 which contained the terms and conditions of service including their wages on board the defendant No. 1 vessel.

It is further stated that the plaintiffs, while on board the defendant No. 1 vessel, did not receive their wages for several

months. Wages were paid irregularly and accordingly, the officers and crew members had substantial wages due to them when they were signed off.

It is further stated that the defendant No. 2, however, made part payment of the plaintiffs' due back wages from time to time till June 2016. Since July 2016, the defendant No. 2 did not pay any back wages to the plaintiffs, rather issued a salary statement, containing the accounts of their due wages. The following are the particulars of the plaintiffs' due wages:

SL.	NAME	RANK	Period of service on Board	Wages Due in BDT	Wages Due in USD (1USD=78.60 BDT)
1.	CAPT. KAMRUL HASAN	MASTER	22-05-2015 TO 04-11-2015	1,443,562.62	18365.94
2.	CAPT. MASUDUR RAHMAN SAEEM	MASTER	09-06-2014 TO 10-06-2015	2,416,676.21	30,746.52
3.	MD. SIRAJ US SALEKIN	CH.OFFICER	02-02-2014 TO 17-02-2015	592,448.00	7,537.00
4.	MD. AHATASHUM BARIK	CH.OFFICER	08-10-2015 TO 08-03-2016	1,977,280.00	25,156.23
5.	MD. ALAMGIR HOSSAIN	2 ND OFFICER	26-07-2014 TO 20-09-2015	976,605.00	12,425.00
6.	MD. FAISAL AHMAD	3 RD OFFICER	30-04-2015 TO 18-02-2016	369,322.38	4,698.76
7.	MD. S.M FEROUZUL FERDOUS	DECK CADET	08-01-2015 TO 14-01-2016	168,376.00	2,142.19

8.	MD. ABDUS SALAM	CH. ENGINEER	23-12-2015 TO 13-07-2016	3,199,212.57	40,702.45
9.	ABDULLAH AL HARUN	2 ND ENGINEER	30-04-2015 TO 02-02-2016	2,566,860.38	32,657.26
10.	MD. SULTANUR RAHMAN	2 ND ENGINEER	31-01-2016 TO 08-03-2016	477,360.00	6,073.00
11.	CHANDAN KUMAR BARUA	3 RD ENGINEER	17-02-2014 TO 20-09-2015	1,270,570.00	16,165.01
12.	DABACHISH PAUL	3 RD ENGINEER	19-09-2015 TO 03-06-2016	1,623,090.38	20,650.00
13.	MD. TANVIR AHAMED	4 TH ENGINEER	19-09-2015 TO 03-06-2016	248,019.02	3,155.46
14.	MD. RAFIQUZZAMAN	OILER	19-09-2015 TO 03-06-2016	220,619.00	2,806.86
15.	MD. ABU NASER	OILER	28-08-2015 TO 03-06-2016	252,630.12	3,214.12
16.	MD. SAZZAD AHAMED	OILER	30-04-2015 TO 01-02-2016	210,471.50	2,677.75
17.	ABDUL MOMIN	OS	19-09-2015 TO 03-06-2016	113,158.00	1,439.67
18.	MD. MUSFIQUR RAHMAN	2 ND OFFICER	19-09-2015 TO 18-07-2016	1,805,645.00	22,972.58
TOTAL DUE WAGES				19,931,906.18	25,3586.59
LEGAL COSTS				15,72000.00	20,000.00
Compensation for loss and damage				49,82976.50	63396.5
TOTAL CLAIM AMOUNT				2,64,86,812.68	3,36,983.09

It is further stated that due to the breach of the respective employment contracts, the plaintiffs have suffered loss and damage. Their families also faced financial hardship due to non-payment of wages. The plaintiffs made repeated request to the owners of the defendant no. 1 vessel for payment of their outstanding wages from time to time. But the representative of the owner only made false promises and did not take any effective steps to pay off the dues of the plaintiffs according to the employment contracts.

It is further stated that this Admiralty Suit is maintainable under Section 3, Sub-Section(2)(n) and Section 4(3) of the Admiralty Court Act, 2000 as it is a claim for recovery of seamen's wages which constitutes a maritime lien and this Admiralty Court has jurisdiction to entertain this Admiralty Suit.

Defendant Nos. 1 and 2 entered appearance in the suit but they did not file written statements in the suit and did not contest the same. The following issues were framed on 11.02.2025:

1. Whether the instant suit is maintainable in its present form?
2. Whether the plaintiffs, who have served on board the defendant No. 1 vessel MT FADL-E-RABBI (IMO: 9078177) are entitled to claim wages due to them and earned by them on board the defendant No. 1 vessel?
3. Whether the plaintiffs are entitled to a decree for the sum for BDT 2,64,86,812.68 being the amount of the plaintiffs' unpaid wages against the principal defendants jointly and severally?

4. Whether the plaintiffs are entitled to an award of interest on the decretal amount from the date when the same is due until to the dates of realization of the amount?

The plaintiffs examined one witness. PW1 is Md. Musfiquir Rahman (plaintiff No. 18). Documents tendered in evidence by PW1 were marked as exhibit Nos. 1-19. Plaintiff No. 18 (PW1) signed and verified the plaint on his behalf and on behalf of plaintiff Nos. 1-17 as constituted attorney.

PW1 deposed that he is plaintiff No. 1 and constituted attorney of the plaintiff Nos. 1-17 of the suit. On 05.10.2016, plaintiff Nos. 1-17 executed a power of attorney empowering him to act on their behalf in the instant suit. PW1 produced the powers-of-attorney [ext. 1].

PW1 tendered in evidence the following relevant documents of himself and plaintiff Nos. 1-17:

1. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Continuous Discharge Book, CDC, COC, NID, Passport and Letter claiming outstanding wages of PW1 (**plaintiff No. 18**) were marked as **Exhibit-2** series (15 pages).
2. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, COC, NID and Passport of **plaintiff No. 1** were marked as **Exhibit-3** series (16 pages).

3. Seafarer Employment Agreement, Portage Bill for the Months of Master, COC, Seaman's Discharge Book, CDC, Letter claiming outstanding wages and passport of **plaintiff No. 2** were marked as **Exhibit-4** series (15 pages).
4. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, COC, Passport and Letter claiming outstanding wages of **plaintiff No. 3** were marked as **Exhibit-5** series (15 pages).
5. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, COC, Passport, NID and ID Card of **plaintiff No. 4** were marked as **Exhibit-6** series (15 pages).
6. Seafarer Employment Agreement, Officer's Final Wages Account, Seaman's Discharge Book, CDC, COC, Passport, NID, ID Card and Letter of claiming outstanding wages of **plaintiff No. 5** were marked as **Exhibit-7** series (15 pages).
7. Seafarer Employment Agreement, Officer's Final Wages Account, Account Statement, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, COC, Passport, of **plaintiff No. 6** were marked as **Exhibit-8** series (16 pages).

8. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, ID Card, NID and Passport of **plaintiff No. 7** were marked as **Exhibit-9** series (10 pages).
9. Seafarer Employment Agreement, Officer's Final Wages Account, Officer Monthly Account, Seaman's Discharge Book, CDC, ID Card, Passport and Letter Claiming Outstanding Wages of **plaintiff No. 8** were marked as **Exhibit-10** series (15 pages).
10. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, COC, Seaman's Discharge Book, CDC, NID and Passport of **plaintiff No. 9** were marked as **Exhibit-11** series (11 pages).
11. Seafarer Employment Agreement, Crew Officer Salary Statement, Seaman's Discharge, Book, CDC, COC, Letter Claiming Outstanding Wages, ID Card, NID and Passport of **plaintiff No. 10** were marked as **Exhibit-12** series (13 pages).
12. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, COC, Passport, NID, ID Card and Letter Claiming Outstanding Wages of **plaintiff No. 11** were marked as **Exhibit-13** series (26 pages).

13. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, Passport, NID and Letter Claiming Outstanding Wages of **plaintiff No.12** were marked as **Exhibit-14** series (10 pages).
14. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, COC, Passport, NID and Letter Claiming Outstanding Wages of **plaintiff No. 13** were marked as **Exhibit-15** series (14 pages).
15. Seafarer Employment Agreement, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, Passport, NID and Letter Claiming Outstanding Wages of **plaintiff No. 14** were marked as **Exhibit-16** series (7 pages).
16. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's Discharge Book, CDC, NID and Letter Claiming Outstanding Wages of **plaintiff No. 15** were marked as **Exhibit-17** series (9 pages).
17. Seafarer Employment Agreement, Officer's Final Wages Account, Crew Officer Salary Statement, Seaman's

Discharge Book, CDC, Passport and ID Card of **plaintiff**

No. 16 were marked as **Exhibit-18** series (10 pages).

18. Seafarer Employment Agreement, Officer's Final Wages

Account, Crew Officer Salary Statement, Seaman's

Discharge Book, CDC, Passport and ID Card of **plaintiff**

No. 17 were marked as **Exhibit-19** series (9 pages).

In Bangladesh, every crew member has to bear a Continuous Discharge Book (CDC) wherein his engagement date and place, discharging date and place along with the post of the crew is contained. Whenever a crew member is signed in and signed off, the same is endorsed by Shipping Master by his official seal and signature and this is the conclusive proof of engagement of a crew member in any vessel.

The plaintiffs are the crew members of the vessel M.T FADL-E RABBI and their claim being related to the wages and other allowances for rendering services to the vessel M.T. FADL-E RABBI the suit comes under the provisions of Section 3(2)(n) of the Admiralty Court Act, 2000 and is maintainable in its present form under Section 3(2)(n) of the Admiralty Court Act, 2000.

The claim of the plaintiffs, it may be mentioned, is also governed by Sections 477 and 479 of the Bangladesh Merchant Shipping Ordinance, 1983 which are reproduced below:

"Section 477: Seaman's lien for wages, etc-(1) Seaman shall have a lien on the ship, and shall not by any agreement forfeit his lien on the ship, or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Ordinance shall be void.

"Section 479. Priorities-The seaman's lien under Section 477 shall have precedence over all other liens or charges on the ship, and the master's lien under section 478 shall have precedence likewise except over that of a seaman."

Heard Mr. Rakibul Hasan, learned Counsel appearing on behalf of the plaintiffs and perused the deposition and documents exhibited. It appears from the plaint, deposition of PW1 and the documents exhibited that the plaintiffs being the crew members of the vessel are entitled to their salary/wages as per the respective employment contracts. PW1 in his testimonies supported the plaintiffs' case as averred in the plaint. I have no hesitation to hold that the plaintiffs have proved their claims.

I note that the plaintiffs' total claim includes legal costs [USD 20,000 = BDT 15,72,000 (1 USD = 78.60 BDT0 at the time of filing of the suit on 16.10.2016] plus compensation for loss and damage

(USD 63,395.50 = BDT 49,82,976.50). The claim as to legal costs and compensation is not supported by statute or the relevant contracts of employment. Hence, plaintiffs are not entitled to those. They are entitled to the actual amount of unpaid wages which is USD 25,3586.59 equivalent to BDT 19,931,906.18 (1 USD = BDT 78.60).

Since this is an action in *rem* as well as in *personam* the plaintiffs are entitled to recover the decretal dues from the sale proceeds of the defendant No. 1 vessel M.T. FADL-E RABBI, and/or from the owners of the vessel and/or from the operating agents of the vessel being defendant Nos. 1-5 who are directly liable to the plaintiffs under the contract.

In the result, the plaintiffs succeed in part.

Hence, it is ordered that the suit is decreed in part in favour of the plaintiffs and *ex parte* against the defendants for an amount of BDT 19,931,906.18 equivalent to USD 25,3586.59 with costs and also interest at the rate of 10% per annum from the date of the decree till realization of the decretal dues.

The plaintiffs are entitled to recover BDT 19,931,906.18 equivalent to USD 25,3586.59 (1 USD = BDT 78.60 at the relevant time *i.e.* at the time of filing of the suit) with costs, and also interest at the rate of 10% per annum from the date of the decree till realization of the decretal dues.