

Employer's Liability for Occupational Accident Compensation and Offset Regulations: Discussing Three Supreme Court Decisions

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Abstract

Taiwan's occupational accident relief system adopts a dual system of occupational accident compensation and employer's liability for damages, with the former consisting of a dual system of employer's liability for occupational accident compensation as stipulated in Article 59 of the Labor Standards Act and insurance benefits and subsidies under the Labor Occupational Accident Insurance and Protection Act, and the latter based on the provisions of the Civil Code. As a result, when workers suffer occupational accidents, they have three separate and parallel avenues of compensation and relief under the Labor Standards Act, the Labor Occupational Accident Insurance and Protection Act, and the Civil Code. These mechanisms operate independently rather than being mutually exclusive, resulting in a complex and fragmented remedial system. Since the implementation of the Labor Occupational Accident Insurance and Protection Act in 2022, it can be said that occupational accident compensation in Taiwan has entered a new chapter. However, the occupational accident relief system has not undergone fundamental changes, and even though the Labor Occupational Accident Insurance and Protection Act has significantly increased the level of occupational insurance benefits, it still has not completely replaced the employer's liability under the Labor Standards Act. Although the employer has already paid the full amount of

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the occupational insurance premiums, the employer is still required to pay the difference between the compensation liability under the Labor Standards Act and the occupational insurance benefits. Therefore, the responsibility of individual employers is still the center of the occupational relief system, and there is still a need to explore in-depth the employer's responsibility for occupational accident compensation. In addition to reviewing the offsetting provisions of the current law on employer's occupational accident compensation liability, this article uses three recent Supreme Court decisions as materials to explore the controversial issues of employer's occupational accident compensation liability in Taiwan, and analyzes the problems that still exist in practice after the implementation of the Labor Occupational Accident Insurance and Protection Act or that may be newly derived.

Keywords: Labor Occupational Accident Insurance and Protection Act, offsets, workers' compensation, Article 59 of the Labor Standards Act, occupational accident insurance pension