

**Adjusting Workers Accident Insurance Benefits and Damages :
Shall the Future Pension Benefits be Deducted from the
Amount of Damages Awardable against the Employer?**

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Abstract

Worker accident victims may litigate the liability for damages of certain employers who have civil responsibility, and the amount of workers' accident insurance benefits will be deducted from the amount of damages awardable against the employers. However, the introduction of pensions into workers' accident insurance, under which a yearly pension is received by the accident victim, raised the question of how future pension benefits are to be treated in the adjustment of workers' accident insurance benefits with damages.

With respect to this issue, legal commentators and the courts were divided between those advocating a "non-deduction theory" (i.e. the view that future pension benefits should not be subtracted from damages) and a "deduction theory" in Japan. However, the Supreme Court adopted the non-deduction theory, and then in the revision of the Workers' Accident Insurance Law, a provision was adopted to adjust damages with insurance benefits.

From the both theoretical and practical aspects, through an analysis of the Japan experiences and the reflection on jurisdiction in Taiwan, this research will try to find some reasonable interpretations to solve the related problems.

Keywords: interests deducted from the amount of the compensation claimed, the Civil Code § 216-1, the Workers' Accident Insurance Law, workers' accident insurance benefits, industrial accidents,

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