

Occupational Disease, a Stroke, Occurred at Lunch Time

I. Case Summary

1. The victim of the occupational disease, (hereafter referred to as "Employee"), entered the Korea Agriculture Corporation (hereafter referred to as "Company"), in November 1973. The employee was promoted in December 1998, and since 2000 he has been working as a branch manager of the Yungi branch office affiliated to Yungi-daekum Division.
2. While the Employee was having lunch together with his coworkers at a nearby restaurant at 12:10 on March 2, 2005, he collapsed without consciousness and then was taken to the University Hospital, where he died due to a stroke by bleeding in the brain at 2 am on March 13, 2005
3. The employee's survivor visited this labor attorney and entrusted the case. The survivor applied for payment of survivor's benefits and funeral expenses to the Branch Office of the Employee Welfare Corporation (EWC) on June 8, 2005, but the Branch Office rejected the application on August 10, 2005 because there was no considerable causality between the employee's work and disease.
4. The survivor applied for examination of the Branch Office's rejection to the Head Office of the EWC on September 28, 2005, but the Head Office rejected the application on November 21, 2005. Then, the survivor applied for examination of the Head Office's rejection to the Commission of the Industrial Accident Compensation Insurance on April 18, 2006.
5. So, the survivor filed this case to Deajeon District Court in August in 2006 and won a lawsuit.

II. Employee Welfare Corporation's Claim

1. According to the Industrial Accident Compensation Insurance Act (IACI Act), the term "occupational accident" means any wound, disease, physical disability, or death of a worker, which is caused by his/her duties. That is, there shall be considerable causality between the employee's work and disease. This considerable causality requires objective facts to be recognizable by which the cause of the accident is attributable to the work and by which the disease became worsened remarkably in excess of natural speed to be worsened in that disease.

Accordingly, this work-related accident shall be decided by medical opinions based upon such facts.

2. We reached our conclusion after considering disease process, work performance and medical opinions. While having lunch at 12:10 on March 2, 2005, the employee showed abnormal acts like rubbing his eyes, was taken by an ambulance to the University Hospital where he had a surgery surgoperation, but die without being recovered. So, the employee's disease can not be recognized as an accident occurred at work, and we confirmed that there had not been occurrences apparent chronic fatigue at recent work or sudden changes at work environment on occurrence day or before. Although it was assumed that the employee had some psychological stresses due to the lowest result at the company's business evaluation in 2004 and some parts of his work had become heavier overwork since the area of his Branch Office was chosen as the Administration-centered Complex City, there are a shortage of medical opinions that such work performance could cause the stroke. However, there are a majority of medical opinions that his accident occurred naturally due to potential risk factors causing a stroke like his high blood pressure, overweight, etc. Accordingly, according to the aforementioned facts, it is hard to be recognized that there is a considerable causality between the employee's disease and work.

III. Survivors' Claim

1. The accident occurred at recess hours (lunch time), which is not related to work performance

Rebuttal : According to the Supreme Court ruling (Apr 25, 2004, Supreme Court 2000da2030), if the employee's behaviors are physiological requirement, reasonable and necessary actions in relation to the labor service after recess hours, they shall be recognized as work-related accident.

2. There has not been apparent chronic fatigue at recent work or sudden changes at work environment on occurrence day or before.

Rebuttal : The area of Yungi branch office of which the employee is in charge was chosen as the administration-centered complex city. Due to this change, there have been more questions and complaints from residents, which disrupted the 'Large

Scale Project of Agricultural Land' and caused the lowest business performance among regional Agricultural Corporation divisions to the Yungi-daekum Division that comprises his Branch Office. The Division director who was appointed in early January 2005 extended one time Branch Managers meeting to two times and encouraged bigger result at each branch office. In particular, the employee paid more attention to the Large Scale Project as it could be easily evaluated as its result was shown in digital figure. So, the employee strived to make the most of his personal networking in January and February, and promoted the Large Scale Project through his relatives and friends, which resulted in making him on the top manager in business performance out of 27 managers of the Division concerned.

3. The day before the accident was holiday.

Rebuttal : The employee drank a lot because of a quarrel with other coworker over the Large Scale Project on February 28 (Monday). While he took a rest at home on March 1 (Tuesday, holiday), he conducted his work calling land owners in relation to the Large Scale Project. This showed that he managed to work out his Project-related duties even during holiday.

IV. Related Legal Regulations

Article 5 (Definition), the Industrial Accident Compensation Insurance Act:

The term "occupational accident" means any wound, disease, physical disability, or death of an worker, which is caused by his/her duties.

Article 39 (Occupational Disease or the Death caused by the Reason), the Ordinance of the Ministry of Labor.

The criteria for recognizing occupational accidents concerning 'occupational disease or the death caused by the reason shall be prescribed by the following attachment table:

[Attachment 1] The criteria for recognizing occupational accidents concerning 'occupational disease or the death caused by the reason.

1. Cerebral accident or cardiac disorder

(1) When the employee at work had such diseases as Intra-cerebral Hemorrhage, Subarachnoid Hemorrhage, Cerebral Infarction, Hypertensive Encephalopathy,

Angina Pectoris, Myocardial Infarction, and Aortic Dissection, or died due to aforementioned diseases, this is work-related disease. In cases where the disease occurred outside working hours, if considerable causality between the occurrence of the disease or its deterioration and the work was evident in the medical perspectives and time logic, it is regarded as work-related accident.

- 1) In cases where sudden and unexpected tension, excitement, horror, surprise and sudden changes at work environment causes remarkably physiological changes to the employee;
 - 2) In cases where the increase of work burden like volume of work, time, intensity, responsibility, and changes at work environment causes physical and mental fatigue chronically to the employee; and
 - 3) In cases where Intra-cerebral Hemorrhage and Subarachnoid Hemorrhage occurred during working hours or where the reasons of the death by the same diseases were not verified medically to be spontaneously deteriorated.
- (2) "Sudden changes at work environment" stipulated in the Subparagraph (1) means workload to be apparent enough to affect normal function of cerebral blood vessel or cardiac blood vessel.
- (3) "Chronic fatigue" stipulated in the Paragraph (2) means that the employee's work volume and working hours increased 30% or more continuously for three days than normal work, or that the employee's work volume, working hours, intensity, responsibility or working environment has changed dramatically enough for the general people to not be able to get adjusted.

2. Related ruling (Supreme Court ruling on March 9, 2006. 2005 doo 13841)

According to Article 5 (1) of the IACI Act, the "occupational accident" means any disease which is caused by his/her duties, and there shall be causality between the employee's work and the disease occurred. Although there was no direct relation between the main cause of the disease and work performance, at least, if occupational fatigue or stress overlapped with the main causes of the disease, causing or deteriorating the disease, it is assumed that there is causality between them. The cause and effect shall not be verified in terms of medical or physical science. If it is assumed that there is considerable causality between the work and the disease in considering all given facts, it shall be regarded that there was verification. In cases where the basic and potential disease that is no problem carrying out normal work duty has become suddenly deteriorated faster than natural speed of deterioration due to heavy workload, it is also regarded that there was

verification. Whether there is causality between the work and the death shall be estimated not by the health and physical conditions of the employee concerned, but not average employee.

V. Conclusion (Daejon District Court Ruling on Apr 18, 2007, 2006 Guhap 3836)

1. The employee had suffered from chronic fatigue and stress since January 2005 due to the Yungi-daegum Division's poor business performance in relation to 'Large Scale Project of Agricultural Land', the encouragement of the new Division director appointed in January 2005, difficulties of implementing Large Scale Project because of construction plans of the Administration-centered Complex City, and mental stress coming from repeated failure in promotion and proactive efforts not to miss the last opportunity to promotion.
2. The employee suffered from a slight stroke in July 1988 and was hospitalized for regular treatment and visiting treatment. As the employee had received treatment of high blood pressure until last moment, it could be assumed that his occupational fatigue and stress might deteriorate his chronic disease.
3. As we review that the cause of the employee's death was due to a stroke by bleeding in the brain, but it was recurrence of his past stroke, it is estimated that his past stroke caused by occupational fatigue and stress and his chronic high blood pressure were suddenly deteriorated faster than natural speed of deterioration or recurred, which led to blood bleeding in the brain and caused death of the employee. Accordingly, this case belongs to the occupational disease under the Industrial Accident Compensation Insurance Act.