



THE LAW SOCIETY
OF SINGAPORE

FAX TRANSMISSION SHEET

To : Forum Editor, Straits Times
Attention : Mr Kong Soon Wah
Your Ref :
Fax No. : 6319 8289
Subject : **Foreign workers insurance claims – lawyers unfairly blamed**

Date : 22 January 2007
From : Philip Jeyaretnam SC
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Dear Editor

I refer to the article "Lawyers using 'pushy tactics' to get workplace injury clients", (ST, 20 January 2007).

The Law Society is puzzled by the article's reporting of insurers' concerns about a rise in common law negligence claims. These concerns exhibit very little faith in Singapore's system of justice to determine whether a claim is merited or not. It is wrong for a lawyer to push a worker into an unmeritorious claim for common law negligence, but it is equally wrong for an insurer or employer to push an unrepresented worker into releasing his right to claim for common law negligence and instead pursue only the no-fault remedy of workmen's compensation (with its lower scale of compensation). Lawyers play a critical role in advising on rights and remedies. The choice between a common law claim and a workmen's compensation claim is one of the hardest decisions an injured worker may ever make in his life: if he goes to court and cannot prove negligence he will end up with no compensation; if there was negligence and he simply accepts workmen's compensation he will have lost out on a substantial amount of compensation. This choice must be a legally informed one, and thus requires the assistance of a lawyer. It is also fair to say that a foreign worker is likely to be relatively vulnerable - lacking in education and facility in English - and so needs help more than most.

The profession has clear regulations concerning the conduct of its members and any insurer can lay a complaint against a lawyer believed to be acting improperly. Insurers should in turn ensure that an unrepresented foreign worker knows what he is doing when he releases his rights to common law compensation. The Society will be happy to work with GIA to institute a scheme whereby insurers fund independent legal advice for foreign workers who are otherwise unrepresented (limited to ensuring they understand the legal consequences of choosing workmen's compensation and giving up their common law rights). For completeness, we should also point out that it is not true to say we are in talks with GIA and MOM - over the years we have met with MOM from time to time, and are happy to meet MOM in future, and, if GIA wishes to, them as well. That would certainly be more productive than publicly and unfairly blaming the legal profession for insurers' losses.

Yours sincerely

Philip Jeyaretnam SC
President
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