



มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (มสพ.)
Human Rights and Development Foundation

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Press Release

**Migrant worker from Myanmar received 345,384 baht as compensation for loss of arm
After a protracted legal fight against his employer for nine years, eight months and 29 days**

On 10 May 2019, **Mr. La Min or Mr. Ku Lha Min**, a migrant worker from Myanmar received 345,384 baht as compensation for the loss of his right arm while working in a plastic factory in Samut Sakhon per the verdict of the Supreme Court. **Human Rights and Development Foundation (HRDF)** has been supporting his legal representation through the protracted period of eight years.

When Mr. La Min had his arm severed by the machine, he had no idea that he was entitled to compensation from either the Workmen's Compensation Fund or his employer. As a result, he only applied for the fund with the Social Security Office (SSO) after the 180-day-deadline. Upon receiving his complaint, SSO, however, instructed the employer to provide the compensation to the worker. The employer claimed the worker intentionally cut his arm and had applied for compensation from SSO after 180 days since the day the injury was inflicted on him. After placing the amount equivalent to the compensation with the Labor Court, the employer has launched a litigation to challenge the SSO's order. Even though the Court insisted that the employer was obliged to pay the compensation as instructed by SSO, the employer decided to appeal the verdict with the higher courts until the Supreme Court ruled in the verdict no. 3588/2561 read out by the Central Labor Court (Nonthaburi) on 17 September 2018 that;

"The co-defendant (Mr. La Min, a migrant worker from Myanmar) did not intentionally had his arm severed. As to the requirement per Section 49 of the Workmen's Compensation Fund Act 1994 for the application of compensation to be filed within 180 days, it is only a clause to urge the employee to expediently exercise their right per Section 20. It cannot be cited as a reason to deprive the worker of the right to receive compensation as provided for by law. Therefore, even though the defendant had failed to apply for the compensation within 180 days from the day the injury was inflicted on him, his right to have the compensation continued to persist."

Despite the Supreme Court's order to have the employer provide the compensation since 17 September 2018, it has taken quite a long time before the employee has eventually received the amount. According to the previous procedure, an employee after the case has reached its final verdict can request for the compensation directly from the Court. But now, the SSO has to request for the money from the Court and then passes it on to the employee. As a result, Mr. La Min or Mr. Ku Lha Min only received the amount of 345,384 baht as compensation on 10 May 2019 from the Samut Sakhon SSO. It has basically taken Mr. La Min or Mr. Ku Lha Min nearly eight months from 17 September 2018 when the verdict was delivered by the Supreme Court until 10 May 2019 to receive the compensation. During that time, Mr. La Min or Mr. Ku Lha Min had to eke out his living using only his left arm to continue his legal fight to demand his right. From 14 August 2009, the day the injury was inflicted on him to the day he received the compensation, it took him nine years, eight months and 29 days such a staggeringly long time.

The Human Rights and Development Foundation (HRDF) also finds it a discrimination that SSO continues to disallow migrant workers in certain kinds of work from directly tapping into Workmen's Compensation Fund when losing their organs as a result of their work. It impedes the access to such due compensation making the process complicated and time-consuming. Such redundant process has made several workers give up their effort to apply for the compensation. SSO should therefore repeal rules and regulations which impede access to the Workmen's Compensation Fund according to ensure

the spirit of the Workmen's Compensation Fund Act 1994. Previous legal precedence affirms an employee's direct access to the Workmen's Compensation Fund including the verdicts of the Supreme Administrative Court in the case between Mr. Joe (without last name) and other, v. the Social Security Office (the verdict of the Supreme Administrative Court no. O821/2558 <http://hrdfoundation.org/?p=1410&lang=en>) and the Supreme Court of Justice in the case between Ms. Noom Maisaeng, an ethnic Shan worker from Myanmar v. Mr. Surin Chirawisit and other altogether 13 (Supreme Court of Justice no. 15582/2558 <http://hrdfoundation.org/?p=1510&lang=en>)

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