# SPC Guiding Case No. 40: Sun Lixing v. the Labor and Personnel Bureau of Tianjin New Technology Industrial Park (Work Injury Determination)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Discussed and adopted by the Judicial Committee of the Supreme People's Court; issued on December 25, 2014.

## Keywords

Administrative work injury determination / work-related reason / workplace / negligence in work

## Holding

1. The "work-related reason" provided in Item 1 of Article 14 of the Regulations on Work-Related Injury Insurance refers to the existence of a connection between the employee's injury and the work the employee was performing.

2. The "workplace" provided in Item 1 of Article 14 of the Regulations on Work-Related Injury Insurance refers to places related to the employee's work duties; where there are multiple workplaces, it also includes the reasonable areas through which the employee passes between multiple workplaces during working hours.

3. Where an employee has negligence in performing his or her work, this does not fall within the circumstances of intentional crime, drunkenness or drug use, or self-harm or suicide provided in Article 16 of the Regulations on Work-Related Injury Insurance, and does not affect the determination of a work injury.

## Basic Facts

The plaintiff, Sun Lixing, alleged that he fell and was injured during working hours, at the workplace, and for work-related reasons, which conformed to the circumstances provided in the Regulations on Work-Related Injury Insurance. The decision of the Labor and Personnel Bureau of Tianjin New Technology Industrial Park (hereinafter the "Park Labor Bureau") not to determine a work injury was erroneous in its factual findings and improper in its application of law. He requested that the Work Injury Determination Decision made by the Park Labor Bureau be revoked, and that the Park Labor Bureau be ordered to make a new work injury determination.

The defendant, the Park Labor Bureau, argued that: Sun Lixing, a salesperson of Tianjin Zhongli Lightning Protection Technology Co., Ltd. (hereinafter "Zhongli Company"), was injured while out on business, but the injury was not caused by work-related reasons; rather, it was because he was not concentrating and his foot slipped as he was descending the steps. There was no obvious causal relationship between his injury and the work task he had accepted, so Sun Lixing did not conform to the circumstances in which a work injury should be determined under the Regulations on Work-Related Injury Insurance. The Park Labor Bureau's decision not to determine a work injury was clear in its facts, sufficient in evidence, and lawful in procedure, and should be upheld.

The third party, Zhongli Company, stated that: because the company implemented a last-place elimination system, Sun Lixing had already been eliminated before the incident. However, because he had originally been engaged in the company's sales work and still had the obligation to recover the remaining payment, he occasionally returned to the company to make phone calls. At the time of the incident, Sun Lixing was no longer an employee of the company, and he was not injured within the company's workplace, so he did not meet the conditions for a work injury determination.

Upon trial, the court found that: Sun Lixing was an employee of Zhongli Company. On the morning of June 10, 2003, he was dispatched by the person in charge of Zhongli Company to pick up someone at the Beijing airport. He went down from the eighth floor of the International Business Center (hereinafter the "Business Center") in the Huayuan Industrial Park, Nankai District, Tianjin, where Zhongli Company was located, intending to drive the Hongqi sedan parked in the Business Center courtyard. When he reached the steps at the first-floor entrance, Sun Lixing's foot slipped, and he fell from the four steps to the ground, leaving him unable to move his limbs. He was diagnosed by the hospital with hyperextension injury of the cervical spinal cord combined with traction injury of the cervical nerve roots, contusion and laceration of the upper lip, abrasion of the left arm, and skin abrasion of the left leg. Sun Lixing applied to the Park Labor Bureau for a work injury determination, and the Park Labor Bureau, on March 5, 2004, made Work Injury Determination Decision (2004) No. 0001, holding that, based on the injured employee's own work injury application and medical diagnosis certificate, combined with the relevant investigation materials, and in accordance with the work injury determination standard in Item 5 of Article 14 of the Regulations on Work-Related Injury Insurance, there was no evidence showing that Sun Lixing's fall and injury were caused by work-related reasons, and decided not to determine Sun Lixing's fall injury as a work injury. Sun Lixing refused to accept the Work Injury Determination Decision and brought an administrative lawsuit before the Tianjin No. 1 Intermediate People's Court.

## Judgment

On March 23, 2005, the Tianjin No. 1 Intermediate People's Court rendered administrative judgment (2005) Yi Zhong Xing Chu Zi No. 39: (1) revoking the Work Injury Determination Decision (2004) No. 0001 made by the Park Labor Bureau; (2) ordering the Park Labor Bureau to make a new specific administrative act within 60 days after the judgment took effect. The Park Labor Bureau appealed, and the Tianjin Higher People's Court, on July 11, 2005, rendered administrative judgment (2005) Jin Gao Xing Zhong Zi No. 0034: dismissing the appeal and affirming the original judgment.

## Reasoning

The court's effective judgment held that: the parties had no objection that the Park Labor Bureau lawfully had the qualification as the subject of administrative law enforcement and statutory authority in this case, that its work injury determination decision complied with legal procedure, and that Sun Lixing was injured during working hours. The issues in dispute in this case included: first, whether the place where Sun Lixing fell was his "workplace"; second, whether Sun Lixing was injured "for work-related reasons"; and third, whether Sun Lixing's negligence of insufficient caution during work affected the work injury determination.

I. On whether the place where Sun Lixing fell was his "workplace": Item 1 of Article 14 of the Regulations on Work-Related Injury Insurance provides that an employee who suffers an accident injury during working hours and in the workplace for work-related reasons shall be determined to have suffered a work injury. The "workplace" in this provision refers to places related to the employee's work duties; where there are multiple workplaces, it also includes the reasonable areas through which the employee passes between multiple workplaces. In this case, the office of Zhongli Company on the eighth floor of the Business Center was Sun Lixing's workplace, and the parking place of the car he needed to drive to complete the task of picking up someone at the airport was another workplace of Sun Lixing. The car was parked outside the first-floor entrance of the Business Center; to complete the task of driving, Sun Lixing had to go from the eighth floor of the Business Center down to the parking place outside the first floor. Therefore, the area from the eighth floor of the Business Center to the parking place was the reasonable area through which Sun Lixing passed between two workplaces, and should also be determined to be Sun Lixing's workplace. The Park Labor Bureau's view that the place where Sun Lixing fell was not his workplace excluded the reasonable route for completing the work task from the workplace, which neither conformed to the legislative intent nor was consistent with common sense.

II. On whether Sun Lixing was injured "for work-related reasons": the "for work-related reasons" provided in Item 1 of Article 14 of the Regulations on Work-Related Injury Insurance refers to the existence of a connection between the employee's injury and the work the employee was performing, that is, the employee's injury has a certain connection with the work the employee was performing. To complete the task of driving to pick up someone, Sun Lixing had to go from the office of Zhongli Company on the eighth floor of the Business Center down to the first floor and enter the car's cab; this conduct was closely related to his work task, was objectively necessary for Sun Lixing to complete the work task, and did not belong to other unrelated personal conduct beyond the scope of his work duties. Therefore, Sun Lixing's fall and injury at the steps at the first-floor entrance was caused by completing the work task. The Park Labor Bureau's claim that Sun Lixing's fall while going downstairs had no direct causal relationship with his driving task and did not conform to "for work-related reasons" injury lacked factual basis. In addition, after accepting the task of driving to pick up someone assigned by the leader of his unit, Sun Lixing went down from the eighth floor of the Business Center where Zhongli Company was located to the first floor, and fell on the way to the parking place in the courtyard; Sun Lixing had not yet left the courtyard where the company was located, so this did not belong to the circumstance of "being out on business," but rather was within working hours and the workplace.

III. On whether Sun Lixing's negligence of insufficient caution during work affected the work injury determination: Article 16 of the Regulations on Work-Related Injury Insurance provides three statutory circumstances excluding work injury determination, namely that where an injury is caused by intentional crime, drunkenness or drug use, or self-harm or suicide, it shall not be determined as a work injury or be deemed a work injury. Where an employee has negligence in performing work, this does not fall within the above statutory circumstances excluding work injury determination, and cannot preclude the connection between the employee's injury and the work the employee was performing. In work injury accidents, injured employees sometimes have negligence such as carelessness and lack of concentration; work-related injury insurance is precisely an important system for sharing accident risks and providing labor protection. If the employee's individual subjective negligence were used as a condition excluding work injury determination, this would violate the basic principle of "no-fault compensation" in work-related injury insurance and would not conform to the legislative purpose of the Regulations on Work-Related Injury Insurance of protecting the lawful rights and interests of workers. Accordingly, even if Sun Lixing was indeed not sufficiently cautious in walking during work, this did not affect the conclusion that his fall was "for work-related reasons." The Park Labor Bureau's claim that Sun Lixing did not fall "for work-related reasons" and should not be determined to have a work injury, on the ground that the cause of Sun Lixing's fall was not slippery steps caused by rain or snow weather but Sun Lixing's own lack of concentration, lacked legal basis.

In summary, the Park Labor Bureau's decision not to determine Sun Lixing as having a work injury lacked factual basis and applied the law erroneously, and should be revoked in accordance with law.

## Relevant Legal Provisions

Item 1 of Article 14 and Article 16 of the Regulations on Work-Related Injury Insurance.

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