Zhang Yiguang (suing by the committee and estate of his person, Tong Wen Li) v Intergraph Systems South East Asia Pte Ltd
[2004] SGHC 126

Case Number	: Suit 1132/2003
Decision Date	: 11 June 2004
Tribunal/Court	: High Court
Coram	: Choo Han Teck J
Counsel Name(s)	: Doris Chia and Adeline Chong (Harry Elias Partnership) for plaintiff; Harish Kumar and Mark Yeo (Engelin Teh Practice LLC) for defendant
Parties	: Zhang Yiguang (suing by the committee and estate of his person, Tong Wen Li) — Intergraph Systems South East Asia Pte Ltd

Insurance – General principles – Claims – Insurance policies taken by employer on life and health of employees – Whether additional benefits conferred by employer on employee could be deducted from insurance payments

Insurance – General principles – Claims – Insurance policies taken by employer on life and health of employees – Whether employee entitled to benefits due under insurance policies

11 June 2004 *Judgment reserved.*

Choo Han Teck J:

1 This is a claim by Tong Wen Li, the wife and committee of the person of Zhang Yiguang (the plaintiff) for a sum of money amounting to $473,089.50 being insurance payments made to the defendant. The plaintiff was an employee of the defendant from 4 October 1999. He suffered a serious and permanent head injury in an accident in Atlanta, USA on 13 June 2002. There was no dispute that he was injured whilst in the employment of the defendant. His employment was terminated on 13 May 2003, a year after the accident. The insurance payments under the policies taken out by the defendant included $186,912 under the Group Term Life Insurance; $280,368.00 under the Group Personal Accident Benefits; and $809.50 under the Group Hospital and Surgical Insurance in respect of medical expenses incurred in Singapore. There was also a travel policy taken out by the defendant with the American Insurance Group (“the AIG policy”) under which a sum of $5,000 had been paid to indemnify the defendant for expenses occasioned by the evacuation of the plaintiff to Singapore. The defendant paid a total of $27,369.58 towards the evacuation costs. All payments under the policies were made to the defendant.

2 The claim by the plaintiff for the AIG payment was misconceived because that was a direct indemnity policy and the money was paid to indemnify the insured for the expenses actually incurred up to the limit agreed under the policy. It was not disputed that the defendant paid the costs of evacuating the plaintiff. Thus, I find that the plaintiff was not entitled to the $5,000 under the AIG policy. The plaintiff’s claim for the rest of the insurance money is less straightforward. The defendant disputed the claims on the ground that since it, and not the plaintiff, was the insured, it was entitled to all payments made under the insurance policies. Its defence averred that “an employee who is insured under a group insurance policy does not acquire any direct interest in the policy unless he is a party to the contract of insurance”. It also denied that it held the benefit of the policies in trust for its employees. It denied that the plaintiff, or any of its employees, was entitled, contractually, to the benefits under the policies.

3 Miss Chia, counsel for the plaintiff, argued that the plaintiff was entitled to the insurance money as a matter of "entitlement", that is to say, as a matter of contract. She referred to cl 11 of the employment contract (dated 4 October 1999) and the defendant's "Employee Handbook" dated June 2001 as constituting the applicable terms of the contract. Clause 11 reads as follows:

> Admission for Employee to the Company's non-contributory medical, dental and hospital scheme. Dental benefit apply after 6 (six) months employment.

Clause 7.3 of the Employees' Handbook reads as follows:

> All employees are entitled to the benefits of insurance protection under the following schemes at the Company's cost. Employees based in Singapore, Myanmar and Vietnam are covered by (the Insurance Corporation of Singapore). For employees based in Malaysia, Indonesia and Philippines, please contact your local office administrator for details of your insurance coverage.

4 The schedule of benefits provided by the insurance company was annexed to the handbook. A company handbook is usually a compendious document that sets out the entitlement and benefits of the employees, as well as the house rules by which they are expected to conduct themselves. Whether the content of the handbook or any part of it constitutes terms of the contract of employment depends on the individual case. Not uncommonly, the contract of employment will refer to the company handbook with a statement that the handbook is binding on the parties. In such a case, it obviously applies as if it were a part of the contract itself. In this case, the contract of employment made no reference to the handbook.

5 In my view, the handbook in the present case was not a part of the contract document. The house rules were still relevant because they might determine whether an employee had been guilty of misconduct, but that is another matter. It is cl 11 of the employment contract that is presently relevant. The handbook merely provided the secondary details. Thus, it was not critical that the handbook was not in fact distributed to the employees. Mr Love, the defendant's representative, testified that the handbook actually remained in the defendant's computer, unpublished. I am of the view, however, that cl 11 sufficiently provided the plaintiff a right to claim such medical and hospitalisation benefits as the defendant company might have provided. The parties could then refer to the handbook to see what it was that the company did provide. Therefore, on the contract ground alone, the plaintiff would be entitled to his claim.

6 In any event, I find that the plaintiff would have succeeded on the grounds of trust, even if he could not succeed in contract under the terms of the employment contract or the handbook. I am of the opinion that when the defendant had taken out policies on its employees, the defendant as their employer held all the benefits due under the insurance policies as trustee for its employees. In its crudest form, insurance is akin to gambling – the insured pitching his dare against the insurer. It is legitimate and prudent for an insured to take out a policy of insurance in many instances – these cases are marked out by the common factor of an insurable interest in the insurance. That interest belongs to the insured. No one else has any right to insure that interest. Thus a man who wishes to protect the assurance of income or standard of living for those whose welfare he is concerned about, will insure his life so that that standard would be maintained in the event that he is rendered personally incapable of discharging his obligations.

7 What interest does the employer have in the life of his employee? Except for defined "key employees", any other employee is deemed replaceable in the context of insurance. Hence, when an employer takes out insurance on the life and health of his employee, he must have done so with the employee's benefit in mind and it should not be assumed that he intended to profit from the event of

his employee's death or misfortune. In this regard, although the company handbook, which the defendant's counsel, Mr Kumar, submitted, was not even issued to the employees, it nonetheless indicated the nature and design of the policies. Thus cl 7.3 of the handbook had to be read as evincing the intention of the company to provide the benefit that that clause addressed. Numerous authorities have been cited to me, and although they have been helpful to me, it is not necessary for me to deal with each or any one of them for they concerned very different situations. An exercise to distinguish those authorities from the present one would, and I emphasise, in this case (as it is presented before me) be a vain display of erudition. I find, therefore, that whether in contract or in trust, the plaintiff was entitled to the insurance benefits taken out on him save the payment under the AIG policy.

8 The next broad area of dispute concerned the question whether the defendant was entitled to deduct $129,578.35 from the insurance moneys on account of having spent that sum as expenses on the plaintiff. This constituted $56,425.37 as expenses such as payment of legal fees, the purchase of a Tri-band handphone set, business class airfare for the plaintiff's wife, telephone and telefax charges, travel expenses and cash advance. The balance consisted of the plaintiff's salary from 14 June 2002 to 13 June 2003 amounting to $73,152.98. When an employee is injured in the course of employment, he is entitled only to such benefits as he is contractually entitled. However, sometimes an employer may make or grant extra benefits in the form of cash allowances for transport or medical bills. If the employer does not specify that these allowances are to be deducted from his salary, insurance money, or otherwise given to him as a loan, then the employee is entitled to assume that they were compassionate gifts by his employers. If the employee was not told that the advances were actually loans, he might not have accepted them. In the present case, I accept the evidence of Mdm Tong that she was not given any indication that the expenses incurred had to be borne by her or the plaintiff at all. I accept her evidence that the defendant had represented to her that the company would bear the cost and expenses of flying her to Atlanta to be with the plaintiff. I accept that she did not request for a business class air ticket and I am of the view that the expenses amounting to $56,425.37 were *ex gratia* payments by the company as compassionate assistance to the plaintiff. Similarly, I find that the payment of salary was not given as an advance that the plaintiff was required to repay. If that had been the intention it ought to have been made clear at that time. Consequently, I allow the plaintiff's claim of $468,089.50. The counterclaim is dismissed. Costs are to follow the event.

Plaintiff's claim allowed.

Copyright © Government of Singapore.