

J. Y. Interpretation No.683 (December 24, 2010) *

ISSUE: Is it unconstitutional for labor insurance cash payment not being made within ten days since the receipt of application and without the addition of delayed interests?

RELEVANT LAWS:

Article 153, Paragraph 1 and the front paragraph of Article 155 of the Constitution (憲法第一百五十三條第一項、第一百五十五條前段) ; Article 10, Paragraph 8 of the Amendments to the Constitution (憲法增修條文第十條第八項) ; Articles 17 of the Labor Insurance Act (勞工保險條例第十七條) ; Article 57 of the Enforcement Rules of the Labor Insurance Act, amended and promulgated on September 13, 1996 (中華民國八十五年九月十三日修正發布之勞工保險條例施行細則第五十七條) .

KEYWORDS:

fundamental national policies to protect laborers under the Constitution (憲法保護勞工基本國策) , social insurance (社會保險) , labor insurance (勞工保險) , labor insurance payments (勞工保險給付) , delayed payment (遲延給付) , delayed interest (遲延利息) , late fee (滯納金) .**

* Translated by Prof. Dr. Ming Woei Chang.

** Contents within frame, not part of the original text, are added for reference purposes only.

HOLDING: Article 57 of the Enforcement Rules of the Labor Insurance Act, amended and promulgated on September 13, 1996, stipulates: “Once the application for cash payment by the insured or his/her beneficiaries is completed and approved for disbursement, the insurer shall disburse the payment within ten days since the date the application is received.” The purpose is to prompt the labor insurer complete the cash payment of labor insurance as soon as possible, and to protect the livelihood of the insured laborers or their beneficiaries in the aftermath of the insured incidents, and is in compliance with the fundamental national policies of labor protection under the Constitution.

REASONING: Paragraph 1 of Article 153 of the Constitution stipulates: “The State, in order to improve the livelihood of laborers and farmers and to improve their productive skills, shall enact laws and carry out policies for their protection.” The front paragraph of Article 155 stipulates: “The State, in order to promote social welfare, shall establish

解釋文：中華民國八十五年九月十三日修正發布之勞工保險條例施行細則第五十七條規定：「被保險人或其受益人申請現金給付手續完備經審查應予發給者，保險人應於收到申請書之日起十日內發給之。」旨在促使勞工保險之保險人儘速完成勞工保險之現金給付，以保障被保險勞工或其受益人於保險事故發生後之生活，符合憲法保護勞工基本國策之本旨。

解釋理由書：憲法第一百五十三條第一項規定：「國家為改良勞工及農民之生活，增進其生產技能，應制定保護勞工及農民之法律，實施保護勞工及農民之政策。」第一百五十五條前段規定：「國家為謀社會福利，應實施社會保險制度。」而憲法增修條文第十條第八項亦要求國家應重視社會保險之社會福利工作。故國家就勞工因其生活及

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a social insurance system.” Article 10, Paragraph 8 of the Amendments to the Constitution also mandates the State to put emphasis on social welfare services from social insurance. Therefore, the State shall establish a social insurance system to jointly undertake the risk of possible losses resulting from their lives or occupations. To realize this constitutional mandate, the legislative body enacts the Labor Insurance Act to ensure that laborers can promptly get various insurance payments in light of the occurrence of insurance incidents, so as to protect the livelihood of the laborers and to promote social security.

Article 57 of the Enforcement Rules of the Labor Insurance Act, amended and promulgated on September 13, 1996, stipulates: “Once the application for cash payment by the insured or his/her beneficiaries is completed and approved for disbursement, the insurer shall disburse the payment within ten days since the date the application is received.” The purpose is to prompt the labor insurer complete the cash payment of labor insurance as

職業可能遭受之損害，應建立共同分擔風險之社會保險制度。為落實上開憲法委託，立法機關乃制定勞工保險條例，使勞工於保險事故發生時，能儘速獲得各項保險給付，以保障勞工生活，促進社會安全。

八十五年九月十三日修正發布之勞工保險條例施行細則第五十七條規定：「被保險人或其受益人申請現金給付手續完備經審查應予發給者，保險人應於收到申請書之日起十日內發給之。」旨在促使勞工保險之保險人儘速完成勞工保險之現金給付，以保障被保險勞工或其受益人於保險事故發生後之生活，符合勞工保險條例保障勞工生活之意旨，與憲法保護勞工基本國策之本旨無違。至於被保險勞工或其受益人，

soon as possible, and to protect the livelihood of the insured laborers or their beneficiaries in the aftermath of the insured incidents, and does not contravene the fundamental national policies of labor protection under the Constitution. With regard to how the insured laborers or their beneficiaries may seek remedy for damages resulting from the culpable delayed payment by the insurers, it should be pointed out that while the legislators have the naturally evolved authority, yet based on the aboveindicated fundamental purpose under the Constitution for labor protection, they should certainly weigh in the progresses of social security mechanism, coordinate with the development of other social insurance systems, and make reference to the provisions on late fees and provisional suspension of insurance payment under Article 17 of the Labor Insurance Act so as to review constantly how the status of laborers can be improved in the labor insurance relations.

Justice Sea-Yau Lin filed concurring opinion.

Justice Tzong-Li Hsu filed concur-

因可歸責於保險人之遲延給付而受有損害時，如何獲得救濟，立法者固有自由形成之權限，惟基於上開憲法保護勞工之本旨，立法者自應衡酌社會安全機制之演進，配合其他社會保險制度之發展，並參酌勞工保險條例第十七條已有滯納金及暫行拒絕保險給付之規定，就勞工在保險關係地位之改善，隨時檢討之，併此指明。

本號解釋林大法官錫堯提出協同意見書；許大法官宗力提出協同意見書；葉大法官百修提出協同意見書；黃大法

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ring opinion.

Justice Pai-Hsiu Yeh filed concurring opinion.

Justice Mao-Zong Huang filed concurring opinion.

Justice Shin-Min Chen filed dissenting opinion in part.

EDITOR'S NOTE:

Summary of facts:

1. The Petitioner's spouse, X, died on August 21, 1998 and the Petitioner filed a death benefit claim under Article 64 of the Labor Insurance Act. The Bureau of Labor Insurance (*hereinafter* BLI), based on then effective Article 18 of the Enforcement Rules of the Labor Insurance Act, rejected the claim on the ground that the company X worked for before her death had failed to pay the insurance premium, thus resulting in its entire employees being withdrawn from the labor insurance since September 30, 1997. The Petitioner subsequently petitioned a constitutional interpretation and the Grand Justices rendered J.Y. Interpretation No. 568 on November 14,

官茂榮提出協同意見書；陳大法官新民提出部分不同意見書。

編者註：

事實摘要：

1. 聲請人之配偶 X 於民國 87 年 8 月 21 日死亡，聲請人依勞工保險條例第 64 條規定請領死亡給付。經勞工保險局（以下簡稱勞保局）依當時有效之勞工保險條例施行細則第 18 條規定，認 X 生前服務之良興公司積欠保費，所屬員工自 86 年 9 月 30 日起全體退保，而拒絕給予勞工保險給付。嗣聲請人聲請釋憲，本院大法官於 92 年 11 月 14 日作成釋字第五六八號解釋，認為上開施行細則以投保人積欠保費將被保險人退保，增加法律所未規定之事項而違憲。聲請人據該解釋提起再審，勞保局乃重新核定，同意回復 X 被保險人資格至死亡日止，並於 93 年 3 月 2 日核定給付。

2003, holding that by withdrawing the insured from the insurance due to premium payer's failure to pay, the above-indicated Enforcement Rules have added items not provided under the statute and thus contravened the Constitution. The Petitioner then filed for a reexamination based on the this J.Y. Interpretation, and after its review, the BLI agreed to reinstate the status of X's labor insurance until the date of her death, and approved the disbursement of her insurance benefits on March 2, 2004.

2. The Petitioner asserted that under Article 57 of the Enforcement Rules of the Labor Insurance Act, as amended and promulgated on September 13, 1996, delayed interests should be added for the BLI's non-payment until March 2, 2004. The BLI, however, rejected the request, claiming that there was no delay. Having gone through the administrative litigation, the case was finally dismissed by the Supreme Administrative Court ((98) *Pan Tzu* No. 654 Judgment (2009)).
2. 聲請人主張依據 85 年 9 月 13 日修正發布之勞工保險條例施行細則第 57 條規定，勞保局遲至 93 年 3 月 2 日始給付，應加計遲延利息。勞保局則以無遲延情事，拒絕其請求。聲請人歷經行政爭訟，經最高行政法院 98 年度判字第 654 號判決駁回確定，爰聲請解釋。

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The Petitioner then filed the present interpretation.