



THE PARTIES TO THE CONTRACT OF COMPULSORY INSURANCE OF CIVIL LIABILITY OF THE EMPLOYER AND SPECIFIC FEATURES OF THEIR OBLIGATIONS

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Abstract: This article discusses the need for the adoption of Law of the Republic of Uzbekistan “On Compulsory Insurance of Civil Liability of the Employer,” the nature of these relations, additional bases of regulation, the object, subject, and subjects of the contract of Compulsory Insurance of Civil Liability of the Employer, their legal status, and the author's suggestions for resolving the issues in this area.

Keywords: employer, civil liability, compulsory insurance, labor duties, disability, occupational disease, death, employee and dependents, damages.

The process of transferring the employer's liability to the employee to insurance organizations is used that is, the employer's civil liability insurance is carried out, as is known from experience around the world, in order to fully defend the interests of the employee. The requirement for employer liability insurance will lessen violations of an employee's and his dependents' legal rights to compensation in the event of an employee's disability, occupational disease, or death while performing work-related responsibilities. Expenses incurred by the employer to make up for harm done to the employee (beneficiary) as a result of their disability, occupational disease, or death while performing their job duties, particularly monthly payments for a number of years to their minor children and other dependents. It may be substantially greater if the necessity for implementation is considered. Any employer may experience serious financial consequences from these kinds of costs, particularly if they have limited financial resources.

In this regard, the widespread use of insurance services for compensation of damages caused to the employee during the course of employment was established, and the employer's civil liability insurance contract is the basis of these relations. This was made possible by the adoption of Law of the Republic of Uzbekistan No. 210 “On Compulsory Insurance of Civil Liability of the Employer”. According to the second paragraph of Article 6 of this Law, in the case of an insurance event, the insurer under the Compulsory Insurance of Civil Liability of the Employer shall indemnify the employer and (or) the victim or the beneficiary in the event of a work-related disability, occupational disease, or health related to the performance of the employee's duties. In exchange for the payment (insurance premium) outlined in the terms of the Compulsory Insurance of Civil Liability of the Employer, he agrees to make up the harm done to his life or health in the event of another injury within the insurance

money. This definition is based on the traditional definition given to insurance contracts. For example, according to the first part of Article 915 of the Civil Code (hereinafter referred to as CC), in accordance with the property insurance contract, one party (insurer) in exchange for the fee (insurance premium) stipulated in the contract, in the event of the occurrence of the event (insurance event) provided for in the contract, to the other party (to the insured) or the person in whose favor the contract was concluded, undertakes to pay (pay insurance compensation) to that person (beneficiary) the damage caused to the insured property as a result of this event or the damage related to other property interests of the insured within the amount (insurance money) specified in the contract. According to this aspect, "damage to the life or health of the employee" is the purpose of the Compulsory Insurance of Civil Liability of the Employer, and this circumstance places the insurer, the other party to the contract, under a responsibility as an insurance event. Once all, if the covered event does not occur within the time frame stipulated in the contract, the insurer is released from liability, and the contracts are null and void once the time frame has passed. The Compulsory Insurance of Civil Liability of the Employer frequently has the same feature.

According to Article 7 of the Law "On Compulsory Civil Liability Insurance of the Employer", The occurrence of civil liability of the employer as a result of the death of an employee in connection with the performance of labor duties during the period of validity of the compulsory insurance contract, or his disability or health damage due to an occupational disease is considered an insurance event under the compulsory insurance contract. Therefore, in order for an insurance event to occur under the Compulsory Insurance of Civil Liability of the Employer, the civil liability of the employer must arise, and to determine such liability, the basis of civil liability for obligations arising from damage: the existence of damage and conditions of liability: illegal behavior, causation and the presence of guilt should be determined¹. According to Article 5 of the law, the compulsory insurance contract is a public contract. The basis for concluding a compulsory insurance contract is the employer's application.

The insurer is in charge of making sure that all of the requirements are included in the Compulsory Insurance of Civil Liability of the Employer. In the case that a dispute arises as a result of the distinct provisions of the Compulsory Insurance contract being insufficient, the issue shall be decided in the employer's favor.

Compulsory insurance contract should include the following:

- name, legal address and bank details of the insurer and the employer (if the employer is a natural person - surname, first name, patronymic, residential address, passport information);
- insurance facility;
- insurance event;
- amount of insurance money;

¹ Okyulov O. Basics of applying civil liability.// In the protection of the law. 1999. No. 9. P.16-19.

- procedure and terms of payment of insurance compensation;
- the amount of the insurance premium, its payment procedure and terms;
- rights, obligations and responsibility of the parties to the compulsory insurance contract;
- the procedure for making changes to the compulsory insurance contract and extending the contract term;
- the date, place and term of validity of the contract;
- other conditions stipulated by law².

To safeguard the rights and interests of employees and improve the consistency of the legal regulation in this area, it will be necessary to determine the specific details of the Compulsory Insurance of Civil Liability of the Employer and to develop a mechanism for determining the occurrence of an insurance event under the contract.

The growth of insurance services, the implementation of several reforms to enhance insurance activities and the insurance market in our nation, and the passage of numerous new laws serving as the legal foundation for these changes have opened up new vistas for the legal regulation of insurance relations³.

Currently, there are a number of points of view describing the legal nature of the insurance contract in modern science. For example, according to M. Suvorova, compulsory insurance belongs to the sphere of private law, and it can be concluded from this that a legal institution is related to private law and cannot be related to the sphere of public law at the same time. The principle of obligation does not affect the nature of legal regulation of private insurance relations and does not change their content. The purpose of compulsory insurance is to protect private interests based on the specific political and economic situation⁴. Of course, one may wholeheartedly concur with the author's assertion that safeguarding private interests is one of the key objectives of mandatory insurance. B. Puginsky believes that it is obvious that the legislator is attempting to incorporate insurance contracts within the purview of civil law because they serve to protect private interests in economic transactions⁵.

Yu. Fogelson states that even if the conclusion of the contract is mandatory for both parties and the terms of the contract are determined on the basis of legislation, the obligation to pay comes after the conclusion of the insurance contract. The content of this obligation can be determined based on the wishes of the parties, if such determination does not contradict the model rules⁶.

² Хамрақулов Ш. Иш берувчининг фуқаролик жавобгарлигини мажбурий суғурталаш шартномасини тузишнинг зарурати ва уни расмийлаштириш тартиби //Общество и инновации. – 2021. – Т. 2. – №. 2/5. – С. 381-390.

³ Хамрақулов Ш. С. ПРАВА И ОБЯЗАННОСТИ СУБЪЕКТОВ ДОГОВОРА ОБЯЗАТЕЛЬНОГО СТРАХОВАНИЯ ГРАЖДАНСКОЙ ОТВЕТСТВЕННОСТИ РАБОТОДАТЕЛЯ ПО ЗАКОНОДАТЕЛЬСТВУ РЕСПУБЛИКИ УЗБЕКИСТАН //ИНТЕГРАЦИЯ НАУКИ, ОБЩЕСТВА, ПРОИЗВОДСТВА И ПРОМЫШЛЕННОСТИ: ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ. – 2021. – С. 146-152.

⁴ Suvorova M.D. On the private law nature of the insurance institution // Jurisprudence, 1977.-№4.-P.135.

⁵ Puginsky B.I. The main problems of the theory of civil law relations. Dis.dokt.jurid.nauk.-M.: 1985. P.87.

⁶ Fogelson Yu.B. Insurance contract in Russian civil law. Dissertation Doctor of Law.-M.: 2005.p.43.

In this sense, as O. Okyulov and N. Egamberdieva admitted, the compulsory insurance contract differs from other contracts in that the insurance money, premium is structured according to special laws, and the amount of the premium is fixed, and it is paid only by the insured. Currently, this type of contract is used mainly for compulsory insurance of citizens' liability to a third party, compulsory insurance of mortgaged property in connection with credit, and insurance of the part of the mortgaged property that is insufficient to cover the loan. The terms of the compulsory insurance contract are determined by law and cannot be changed arbitrarily⁷.

We believe that the contract's required nature cannot serve as justification for the public to recognize its legitimacy. The fact that contracts must be concluded in an obligatory manner according to civil law (Article 377 of the CC) does not change the fact that such contracts are subject to civil law. Given this circumstance, it should be acknowledged that contacts involving mandatory insurance can be governed by the same principles that apply to other private-law contractual arrangements. We believe that the ideals of equality (equivalence), honesty, and contract freedom are the most crucial.

The employer is obliged to pay the damage caused to the health of the employee in connection with the work injury or the performance of other work duties, if he cannot prove that he is not responsible for the damage caused to the employee.

It can be claimed that the contract of the Compulsory Insurance of Civil Liability of the Employer should define the employer's liability, which is thought to be an essential condition of the insurance event. This exclusion of liability excludes the payment of insurance proceeds and damages and signifies that the insured event does not exist in and of itself. According to this perspective, due to insolvency, bankruptcy, or liquidation, the employer is not always able to fulfill its commitments to the employee in full and on time under the circumstances of contemporary market. In addition, the modern state of technological development, the use of advanced technologies in production is associated with an increase in dangerous situations related to the employee's work. International experience shows that in order to fully protect the employee's interests, the mechanism of transferring the employer's liability to the employee to insurance organizations is used, that is, the employer's civil liability insurance is carried out. The introduction of Compulsory Insurance of Civil Liability of the Employer will reduce the violation of the right of the employee and his dependents to recover damages in connection with the employee's disability, occupational disease or death in connection with the performance of work duties. Expenses of the employer to compensate the damage caused to the employee (beneficiary) in connection with the disability, occupational disease or death of the employee in connection with the performance of his work duties, especially monthly payments for several years to minor children and other persons dependent on the injured employee. if the need for implementation is taken into account, it can be much



⁷ Фуқаролик ҳуқуқи. II-қисм.-Тошкент: Илм-Зиё, 2008.-559 б.

larger. Based on these circumstances, a new type of insurance service, compulsory civil liability insurance of the employer, was created in Uzbekistan. The system of civil-legal liability insurance contracts is known to contain the employer's civil liability insurance contract. This sort of contract's legal foundations are described in CC. According to Section 1 of Article 918 of the CC, "the risk of liability of the policyholder himself or of another person upon whom such responsibility may be imposed may be insured under the contract of insurance of the risk of liability arising as a result of damage to the life, health, or property of others." In other words, the law permits the employer's mandatory civil liability insurance to have its own legal foundation. At the same time, in part 3 of this article, "contract of insurance of the risk of liability for damage, even if the contract is concluded for the benefit of the insured or another person who is responsible for the damage, or if the contract does not indicate whose benefit it is concluded, it is considered to be concluded for the benefit of the persons (beneficiaries) who may be harmed. This situation means that the compulsory civil liability insurance contract of the employer can be concluded in favor of the employee (victim, beneficiary under this contract). Based on this rule, in the event of an insured event in the contract of compulsory civil liability insurance of the employer, the insured - not the employer, but the victim - the employee is entitled to receive insurance compensation.

The legal framework for the employer's contract for required civil liability insurance is determined in part by the Law of the Republic of Uzbekistan "On Insurance Activity" of April 5, 2002 No. 358-II⁸. This law defines the term "insurance activity," which includes "compulsory civil liability insurance of the employer," insurance objects (the insurance event under the contract of compulsory civil liability insurance of the employer during the period of validity of the contract of compulsory civil liability insurance of the employer as well as compensation for damage caused to the employee's life or health as a result of the employee being disabled at work, contracting an occupational disease, or becoming ill as a result of one of these conditions), and insurance activities. The subjects of insurance activity, their rights and obligations, as well as the requirement that insurers hold the necessary licenses, are important for the relationships of the civil liability insurance of the employer. These situations are represented by the fact that the civil liability of the employer has arisen in the prescribed manner, which is also established based on the provisions of this Law regarding the insurance objects⁹.

In our view, it is imperative to strengthen the law and clearly define the legal standing and purview of the employers who take part as the second party to the contract of the employer's mandatory civil liability insurance. Otherwise, incidents of impairment

⁸ Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2002, No. 4-5, Article 68; Collection of Laws of the Republic of Uzbekistan, 2006, No. 41, Article 405; 2007, No. 37-38, Article 376; 2008, No. 17, Article 129; No. 52, Article 508; 2009, No. 39, Article 423; 2010, No. 50, Article 471.

⁹ KHAMRAKULOV S. Жамият ва инновациялар—Общество и инновации—Society and innovations. – 2021.

from work and inability to receive compensation may occur due to uncertainty in the scope of the subjects to which this contract may be applied.

Another important point to note is that the subject of compulsory civil liability insurance contracts is of a unique complexity. First of all, when defining this concept, it is necessary to define the main insurance obligation: in accordance with the contract of compulsory civil liability insurance, the insurer undertakes to compensate the damage caused within the insurance money based on the interests of another person (beneficiary) provided for in the contract at the expense of a certain amount paid by the insured as a result of the occurrence of an event specified in the contract.

In conclusion, it should be mentioned that in order to prevent future problems that may arise in relations in this field, Article 6 of the Law “On Compulsory Insurance of Civil Liability of the Employer” should include the following as the fourth and fifth parts:

firstly, the employer has the right to choose the insurer under the compulsory insurance contract;

secondly, he does not have the right to refuse to conclude a compulsory insurance contract with the employer who has applied for the conclusion of a compulsory insurance contract.

Additionally, the Law “On Compulsory Civil Liability Insurance of the Employer” does not utilize the term ‘insured’ and does not reflect the subjective nature of insurance legal relations as they are understood in civil law theory. This could lead to a number of misconceptions in the actual execution of these contractual relations. The definition of ‘insured’ in the Law “On Compulsory Civil Liability Insurance of the Employer” must read “insured employer, legal or natural person who has concluded an employment contract (contract) with an individual in accordance with the procedure established by law”.

