

Employer/proprietor sentenced to imprisonment and fined for failing to take out insurance cover for worker and ensure work safety

The proprietor of a scaffolding company was convicted and sentenced to two weeks' imprisonment (suspended for 18 months), in addition to a fine of \$5,000 at the Shatin Magistrates' Courts today (August 6) for failing to take out an insurance policy for his employee as required by the Employees' Compensation Ordinance (ECO). The proprietor and his principal contractor were also fined \$45,000 and \$72,000 respectively for violation of the Construction Sites (Safety) Regulations. The prosecutions were launched by the Labour Department (LD).

The LD welcomes the judgements. The LD hopes that the case would send a strong message to other employers and proprietors that they should take out employees' compensation insurance policies for their employees and protect their employees' occupational safety and health (OSH) in accordance with the law.

The proprietor employed a scaffolding worker, who worked in a residential building located in Tai Po on December 8 last year. When the scaffolding worker was erecting a truss-out bamboo scaffold, he fell for a vertical distance of about nine metres to the podium on the second floor of the building. He was certified dead three days after hospitalisation. It was found that the proprietor had failed to secure an insurance policy as required by the law for the worker throughout his whole employment period from December 1, 2019 the latest to December 8, 2020 and failed to adopt necessary work-at-height safety measures, and the LD therefore launched the prosecutions.

Section 40(1) of the ECO stipulates that employers are required to take out insurance policies for all their employees to cover their liabilities both under the ECO and at common law for injuries at work. Employers/proprietors are also required to take adequate OSH precautions pursuant to relevant provisions under the OSH law.

"Employers failing to secure insurance cover for their employees commit an offence and are liable to a maximum fine of \$100,000 and imprisonment for two years. Besides, employers/proprietors failing to ensure their employees' OSH are liable to a maximum fine of \$500,000 and imprisonment for one year. The LD does not tolerate such offences and spares no efforts in prosecuting employers/proprietors who defy the law," a spokesperson for the LD said.

The LD stresses that employers/proprietors should take out employees' compensation insurance policies for their employees to ensure that employees injured at work could receive employees' compensation and should adopt

adequate OSH precautions to ensure their employees' safety at work. The LD will continue to safeguard the statutory employment rights and benefits as well as OSH of all workers in Hong Kong. All workers who suspect that their employers have not taken out insurance cover or taken adequate OSH precautions for them should promptly report the matter to the LD, assist in investigation and give evidence to protect their statutory rights and benefits as well as OSH.

To enhance the awareness and knowledge of their employment rights and benefits as well as OSH, the LD will continue to hold various promotional and educational activities.