

## “Application of Workers Compensation for Death by Overwork: Victim Working at More Than Two Employers”

Jun Nakgawa (Tokyo Keizai University)

In Japan, the administrative standards of application of Workers' Compensation for death or suicide by overwork have been provided for many years. In 2020, the standards for death by overwork for brain/heart disease are renewed and loosened. At the same year, the Workers' Compensation Act was amended in corresponding to “Work Style Reform” under Abe administration in 2017 which promotes labour reformation. One of the amendments is to change the rules to apply Workers' Compensation for employees who are employed at more than two employers. The amendment provides first that the benefit be calculated on basis of incomes (average wage) earned under two employers, and second that in considering “undue hardship” of jobs on physical and mental conditions to provide the Compensation, the working hours, and burdens of jobs on the victim's mental condition suffered under two employers are added up. This amendment seems simple and suitable for the victim's real incomes but has some serious theoretical problems. Although this presentation clarifies the standards and the amendment of Workers' Compensation, it also attempts to address the theoretical issues. Although the Workers' Compensation has the somehow characteristics or resemblance of tort liability because one employer who is responsible for the injure or disease may compensate the damage the victim suffers, the measurement to calculate both incomes makes the characteristics lose, and then gets moved into social security in theory. In addition, although the Act excludes the intentional victimization from the application under section 12/2(2)(2) of the Act, the individual choice of having more than two jobs which enables him to work longer hours and impacts on physical and mental conditions of employee may lead to application of the Compensation.