



CEO Sentenced to One Year in Prison in the Second Ruling Under The Serious Accidents Punishment Act Following a Fatal Jamming Accident at a Factory

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1. CEO B of Contractor A Remanded and Sentenced to Prison in the Second Ruling Under The Serious Accidents Punishment Act

After the first judgment for the violation of the Serious Accidents Punishment Act (“SAPA”) on April 6, 2023, the Court rendered its subsequent judgment on April 26, 2023 sentencing CEO B of Company A to one year in prison. This represents a significant milestone as it marks the first instance following the enactment of the SAPA where a CEO has been actually remanded and incarcerated.

On April 26, 2023, the Masan Branch of the Changwon District Court sentenced a fine of KRW 100 million to Company A (contractor) that was indicted for violating the SAPA (the offence of causing a fatal industrial accident) and the Occupational Safety and Health Act. The Court also sentenced CEO B of Company A to one year in prison, who was indicted for violating both the SAPA (the offence of causing the fatal industrial accident) and the Occupational Safety and Health Act, as well as the crime of death and injury by occupational negligence.

In March 2022, a tragic incident occurred at the factory of Company A, situated in Haman, Gyeongnam Province. The event unfolded when an old textile belt malfunctioned, causing a heat sink weighing 1.2 tons to plummet from a crane. Tragically, a laborer in his 60s, employed by a subcontracted facility maintenance company, lost his life due to hemorrhagic shock as his left leg became jammed between the heat sink and the floor. As the CEO of Company A, the Defendant B was responsible for the establishment and implementation of the safety and health measures pursuant to the SAPA. In fact, being in charge of overseeing and managing overall safety and health measures, he was entrusted with the duty of ensuring the well-being of workers and subcontractors at the worksite.

The Court determined that the cause of the fatal accident was CEO B’s failure to establish and implement a safety and health management system in accordance with the SAPA and failure to perform the safety and health obligations

pursuant to the Occupational Safety and Health Act on the following grounds:

1. CEO B failed to implement essential measures for establishing and executing a comprehensive safety and health management system. This failure included a lack of initiative in developing evaluation criteria to assess the competency and effectiveness of safety and health managers in diligently carrying out their responsibilities. Furthermore, CEO B neglected to establish criteria and procedures to evaluate the proficiency and capabilities of subcontractors in effectively preventing industrial accidents. Moreover, as a consequence of CEO B's failure, Manager D from subcontractor C, entrusted with the role of ensuring health and safety at the workplace, was unable to fulfill his obligations concerning health and safety measures.
2. CEO B failed to prepare guidelines for the handling of heavy objects by the laborers of subcontractor C.

2. Implications of the Sentence

This is the second court judgment under the SAPA since its implementation on January 27, and the case has garnered widespread attention as the first instance in which a CEO of a contractor has been subjected to imprisonment.

In the instant case, the defendants fulfilled some of their obligations, confessed to all of their crimes, settled with the victims' families, and the bereaved family filed a petition for leniency against the defendants.

Nevertheless, the Court imposed a severe punishment of a fine of KRW 100 million to Company A and one year in prison to CEO B on following grounds:

1. Considering the legislative intent and the background of SAPA, it is imperative to impose stringent punishment on the management, including the executive officer, in cases where serious accidents result from violation of their safety and health obligations.
2. CEO B has a history of being found to have, and punished for, violating the obligation to implement safety measures on four occasions between the years 2010 and 2011.
3. The present accident occurred on March 16, 2022, while CEO B was already in the midst of a criminal trial for a previous fatal industrial accident due to a failure to fulfill his obligations to ensure implementation of safety and health measures, as mandated since the enforcement of the SAPA on January 27, 2022. Furthermore, an additional violation of the safety obligation was unearthed around June 9, 2022 during an on-site inspection that was prompted by the present accident.

Defendants A and B claimed as extenuating circumstances that “they made efforts to establish and implement safety and health measures by preparing evaluation criteria for managers regarding the safety and health in accordance with the enforcement of the SAPA, but the industrial accident occurred before they were able to finalize the evaluation criteria, and they had insufficient time to comply with their obligations under the SAPA.” However, the Court considered that the SAPA provides one year grace period for companies to comply with its requirements from the date of the promulgation of the SAPA, and Company A had a pressing need to establish and implement safety and health measures during this one year period given that a fatal industrial accident had already occurred.

This ruling has significant implications as it highlights the importance of properly implementing a safety and health management system in accordance with the SAPA before the occurrence of any serious accident. While settling with the

victims, confessing to violations, and seeking leniency after the occurrence of a serious accident are important, it is even more crucial to take measures to ensure that similar accidents do not recur by diligently fulfilling the requirements of the safety and health in accordance with the SAPA.

[\[Korean version\]](#) 중대재해처벌법 2호 판결 (A사 경남공장 하청노동자 협착 사망사고) 도급인A사 대표이사 징역1년 실형선고(법정구속) 및 시사점

Key Contacts

Hyun Il Jin

Partner

+82-2-316-2897

hijin@shinkim.com

Tae Seung Kim

Partner

+82-2-316-1771

tskim@shinkim.com