

JUDGMENT Express

[2026] 2 MLRH
Ketua Pengarah Pertubuhan
Keselamatan Sosial
v. Ahmad Izzat Farhan Roselan

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KETUA PENGARAH PERTUBUHAN KESELAMATAN SOSIAL

v.

AHMAD IZZAT FARHAN ROSELAN

High Court Malaya, Shah Alam
Narkunavathy Sundareson J
[Civil Appeal No: BA-16-1-01-2025]
2 December 2025

Labour Law: Social security — Temporary disablement benefits — Appeal against decision of Social Security Appellate Board allowing respondent's appeal for temporary disablement benefits — Interpretation and application of s 2(6) Employees' Social Security Act 1969 ('Act') — Whether respondent failed to fulfil elements in the definition of employment injury in s 2(6) of the Act — Whether respondent's injury not an employment injury entitling him to temporary disablement benefits

This was the Appellant's appeal against the decision of the Social Security Appellate Board ("SSAB") allowing the Respondent's appeal for temporary disablement benefits. The Respondent, a technician with Tenaga Nasional Berhad ("TNB"), had participated in a futsal tournament organised by TNB on 15 December 2023. He was injured during the tournament and was treated at a nearby clinic. He later underwent surgery and was placed on medical leave from 18 December 2023 to 30 April 2024. Subsequently, the Respondent applied for temporary disablement benefits. The Appellant rejected the application on the grounds that his application did not satisfy s 2(6) of the Employees' Social Security Act 1969 ("Act"). The Respondent appealed to the SSAB which appeal was allowed. Hence the present appeal, which raised a substantial question of law regarding the interpretation and application of s 2(6) of the Act as to whether the Respondent's injury was an employment injury.

Held (allowing the appeal):

(1) The three elements that must be fulfilled for an injury to fall within the definition of "employment injury" were: (i) the injury must arise out of the employee's employment; (ii) the injury must arise in the course of the employee's employment; and (iii) the employment must be an industry to which s 2(10) of the Act applied. From the evidence adduced before the SSAB, the Respondent's injury: (i) did not arise out of his employment as a TNB technician; (ii) did not arise in the course of his employment; and (iii) at the time of the injury, he was playing futsal, which had nothing to do with the industry he was employed in. The Court was guided by the judgment in *Ketua Pengarah Pertubuhan Keselamatan Sosial lwn. Gow Soo Tan* ("Gow Soo Tan"). From the SSAB's grounds of judgment, there was no reference to the elements set out



in *Gow Soo Tan*. Rather, the SSAB seemed to have placed great emphasis on the implied expectations existing in an employer-employee relationship. The SSAB committed an error when it disregarded proof of the elements advocated in *Gow Soo Tan*. The Respondent failed to fulfil the elements in the definition of employment injury in s 2(6) of the Act. Hence, the Respondent's injury was not an employment injury entitling him to temporary disablement benefits. (paras 16-21)

Case(s) referred to:

Ketua Pengarah Pertubuhan Keselamatan Sosial lwn. Gow Soo Tan [2004] 3 MELR 838; [2004] 1 MLRH 280 (fold)

Ketua Pengarah Pertubuhan Keselamatan Sosial v. Vadivelan Sandara Saigara [2008] 3 MELR 243; [2008] 2 MLRH 809 (refd)

Patrick Ho Chang v. Pertubuhan Keselamatan Sosial [2019] MLRHU 1212 (refd)

Legislation referred to:

Employees' Social Security Act 1969, ss 2(6), (10), 91

Counsel:

For the appellant: Suhaib Ibrahim; M/s Skrine

For the respondent: Brenda Rangithan (Prissilla John with her); M/s Mohanadass Partnership

JUDGMENT

Narkunavathy Sundareson J:

Introduction

[1] This is an appeal against the decision of the Social Security Appellate Board (SSAB) dated 29 November 2024 wherein they allowed the respondent's appeal for temporary disablement benefits.

[2] After careful consideration of the cause papers and the submissions, this court decided to allow the appeal. The following are the reasons for that decision.

Proceedings Before The SSAB

[3] The Respondent is a technician with Tenaga Nasional Berhad (TNB). Although he is stationed in Selangor, he was part of an operation inspecting meters in housing and industrial areas in and around Ipoh. TNB organized a futsal tournament at X Park Sunway City, Ipoh on 15 December 2023 and the Respondent was the captain for the Selangor team.

[4] The Respondent was injured during the tournament and was treated at a nearby clinic. Later he underwent surgery and was placed on medical leave from 18 December 2023 till 30 April 2024.



[5] On 18 April 2024, the respondent applied for temporary disablement benefits. The Appellant rejected the application on the grounds that his application did not satisfy s 2(6) of the Employees' Social Security Act 1969 (Act 4).

[6] The Respondent appealed to the SSAB.

[7] The SSAB allowed the Respondent's appeal holding:

"... setelah meneliti surat cara dan dokumen yang dikemukakan oleh perayu adalah jelas bahawa kehadiran perayu di acara yang dianjurkan atas arahan majikan. Ini bermakna perayu telah mengalami kecederaan semasa menjalankan tugas dan memenuhi tafsiran bencana kerja seperti mana dinyatakan di dalam subseksyen 2(6) Akta Keselamatan Sosial Pekerja 1969 [Act 4]. Oleh itu rayuan Pihak Perayu dibenarkan."

Submissions

[8] The Appellant contended that the SSAB was wrong to hold that the respondent was entitled to the temporary disablement benefits because:

- (i) TNB did not compel or order the respondent to participate in the futsal competition; and
- (ii) the injury did not arise out of and in the course of his employment as a TNB technician.

[9] The Respondent argued that the appeal did not involve any substantial questions of law as it merely involves a question of fact (*Ketua Pengarah Pertubuhan Keselamatan Sosial v. Vadivelan Sandara Saigara* [2008] 3 MELR 243; [2008] 2 MLRH 809 at p 815).

[10] This appeal required the court to determine whether the Respondent was compelled to join the futsal competition which required an assessment of the evidence presented. This made it entirely a question of fact which was not appealable pursuant to s 91 Act 4.

[11] The Respondent pointed out that his participation in the competition was at the direction of TNB who had organized the event and elected the respondent as captain for the Selangor team. It was an activity incidental to his employment.

Right Of Appeal

[12] Section 91 Act 4 in its entirety reads:

- "(1) Save as expressly provided in this section, no appeal shall lie from an order of the appellate boards set up by or under this Act.
- (2) An appeal shall lie to the High Court from an order of an appellate board set up by or under this Act if it involves a substantial question of law.



- (3) The period of limitation for an appeal under this section shall be sixty days from the date the order is made.”

[13] The right of appeal under this provision is limited to “substantial question of law”. This phrase was examined at length by Wong Kian Kheong J (as His Lordship then was) in *Patrick Ho Chang v. Pertubuhan Keselamatan Sosial* [2019] MLRHU 1212 wherein His Lordship held at para [13]:

“(v) I accept the interpretation of the phrase “substantial question of law” given in *Rimmalapudi Subba Rao*. There can only be an appeal against a decision of the appellate medical board to the High Court under s 91(1) and (2) ESSA if an appellant, be it a claimant or the “Organisation” (defined in s 2(16) ESSA as the Social Security Organisation), can satisfy the High Court that the appeal involves a “substantial question of law” as follows:

- (a) an important question of law is involved;
- (b) a difficult question of law arises in the appeal;
- (c) if the question of law involved is neither important nor difficult, the question is nevertheless a substantial question of law if the question is arguable in the sense that;
 - (1) there is room for reasonable doubt on the question; or
 - (2) there is a difference of opinion on the question;
- (d) when a particular set of facts can lead to alternative findings of law, a substantial question of law is involved;
- (e) where a legal principle or rule to be applied in a case is not well established, there arises a substantial question of law; and
- (f) if the appeal concerns:
 - (1) conflicting decisions of the High Court; or
 - (2) conflicting judgments of the Court of Appeal on a question of law and there is no judgment of the Federal Court on the question, there is a substantial question of law involved in the appeal.

I should add that the above examples as a “substantial question of law” are not exhaustive;

- (vi) premised on *Rimmalapudi Subba Rao*, an appeal does not involve a “substantial question of law” if:
- (a) the question of law only affects the rights of the parties; or
 - (b) the question of law can be decided by reference to well- settled general principles of law; and



- (vii) the appellant bears the burden to satisfy the court that the appeal concerns a “substantial question of law” in accordance with s 91(2) ESSA.”

[14] This court is satisfied that the appeal raises a substantial question of law regarding the interpretation and application of s 2(6) Act 4 as to whether the Respondent’s injury was an employment injury.

Findings

[15] Section 2(6) Act 4 defines employment injury to mean:

“A personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in an industry to which this Act applies.”

[16] The three elements that must be fulfilled for an injury to fall within the definition of “employment injury” are:

- (i) the injury must arise out of the employee’s employment;
- (ii) the injury must arise in the course of the employee’s employment; and
- (iii) the employment must be an industry to which s 2(10) Act 4 applies.

[17] From the evidence adduced before the SSAB, the Respondent’s injury:

- (i) did not arise out of his employment as a TNB technician;
- (ii) did not arise in the course of his employment; and
- (iii) at the time of the injury he was playing futsal which had nothing to do with the industry he was employed in.

[18] This Court was guided by the judgment in *Ketua Pengarah Pertubuhan Keselamatan Sosial lwn. Gow Soo Tan* [2004] 3 MELR 838; [2004] 1 MLRH 280 wherein Sulaiman Daud J (as His Lordship then was) held at pp 281-282:

“Dalam kes sekarang ini responden adalah seorang kerani bank dan kecederaan yang dialaminya terbit daripada suatu acara sukan yang disertai dalam karnival sukan yang dianjurkan oleh majikannya. Mengikut surat majikan responden (di ms 18 Rekod Rayuan) para pekerja diwajibkan untuk menghadiri diri bagi memeriahkan acara tersebut dan kegagalan akan menjejaskan penilaian prestasi tahunan seseorang. Pekerja juga diwajibkan hadir sepanjang masa karnival sukan sehingga ianya tamat tetapi bagaimanapun ketidakhadiran sedemikian tidak akan mengakibatkan gaji pekerja dipotong.

Daripada fakta tersebut di atas saya dapati bahawa penyertaan responden dalam acara sukan tahunan itu boleh dikatakan terbit daripada pekerjaannya kerana dia diwajibkan hadir oleh majikannya atas sifatnya sebagai seorang pekerja. Semasa menghadiri dan mengambil bahagian dalam karnival tersebut



dia telah mengalami kecederaan. Oleh itu kecederaan itu bolehlah dikatakan disebabkan oleh suatu kemalangan yang terbit daripada pekerjaannya kerana jika dia tidak bekerja di bank tersebut sudah semestinya dia tidak diwajibkan hadir sedemikian.

Walaupun bagaimanapun, fakta bahawa kecederaan itu disebabkan kemalangan yang terbit daripada pekerjaannya sahaja masih tidak mencukupi bagi memenuhi kehendak takrifan “bencana kerja” tersebut. Elemen kedua yang mesti dipenuhi ialah bahawa kemalangan itu juga hendaklah terbit dalam masa menjalankan pekerjaannya. Walaupun peguam terpelajar responden menegaskan bahawa adalah termasuk dalam terma kontrak perkhidmatan responden untuk mematuhi apa-apa arahan majikannya tetapi pada pendapat saya arahan tersebut hendaklah hanya bersampingan atau berkaitan dengan pekerjaannya sebagai seorang kerani bank.

Pada pendapat saya adalah tidak termasuk dalam, atau menjadi sebahagian daripada, tugas atau kewajipan responden, sebagai seorang kerani bank, untuk terlibat dalam aktiviti sukan dalam atau di luar masa kerjanya. Oleh itu tiada apa-apa aktiviti sedemikian boleh disiratkan daripada terma kontrak perkhidmatannya. Adalah jelas pada saya bahawa kecederaan yang dialami responden tersebut tidak ada kena mengena atau berkaitan langsung dengan skop bidang tugasnya sebagai seorang kerani bank.

Jikapun majikan responden menghendaki pekerjaannya terlibat dalam aktiviti sukan tetapi pada pendapat saya aktiviti tersebut tidaklah dilindungi di bawah Akta kerana terkeluar daripada takrifan perusahaan yang baginya Akta ini terpakai. Adalah tidak wajar untuk memperluaskan pemakaian Akta bagi perusahaan-perusahaan yang lain daripada yang dihasratkan oleh Akta. Jika seseorang majikan itu berkehendakkan pekerjaannya menjalankan sesuatu aktiviti yang lain daripada tugas dan kewajipan asalnya, maka ia hendaklah bertanggungjawab ke atas apa-apa bencana yang dialami oleh pekerjaannya semasa menjalankan tugas dan kewajipan tersebut. Adalah tidak adil dan wajar untuk mengenakan apa-apa tanggungan ke atas Kumpulan Wang Keselamatan Sosial yang ditubuhkan di bawah Akta bagi membayar apa-apa tuntutan akibat bencana yang berlaku pada seseorang pekerja semasa menjalankan tugas dan kewajipan yang tidak termasuk dalam bidang tugasnya.”

[19] From the SSAB’s grounds of judgment, there was no reference to the elements set out in *Gow Soo Tan (supra)*. Rather, the SSAB seems to have placed great emphasis on the implied expectations existing in an employer-employee relationship when it held:

- “7. Hubungan di antara majikan dan pekerja merupakan satu ikatan yang bukan sahaja nyata, di mana wujudnya perundangan untuk memastikan kesahihan. Namun ia turut melibatkan unsur-unsur yang tidak nyata seperti kepercayaan, kehormatan dan keperluan.
8. Dalam kes ini, apabila majikan meminta pekerja untuk menyertai program sukan anjurannya, ia lebih melibatkan unsur kedua iaitu yang tidak nyata. Hubungan yang tidak nyata antara majikan dan pekerja ini memang rumit namun, ia tetap penting kerana tanpa hubungan ini boleh menggugat tugasan secara am. Ia turut melibatkan aspek seperti



kelancaran pekerja di dalam sesebuah organisasi yang boleh terjejas kerana hubungan antara majikan dan pekerja adalah tidak kukuh.

9. Perayu telah menyertai sukan tersebut, atas apa-apa alasan namun tetap dia menyertai sebab ia merupakan satu program yang diluluskan oleh Majikan. Semestinya terlintas di dalam pekerja itu bahawa tindakannya untuk menyertai acara tersebut akan memberi gambaran positif oleh majikan terhadap pekerja itu.
10. Walau bagaimanapun, sekiranya perkara yang tidak diingini berlaku, semestinya akan ada kesan sampingan. Inilah yang perlu ditanggung oleh setiap majikan atau ketua dalam organisasi. Dari segi ekonomi, syarikat boleh membantu, namun pekerja mempunyai hak lebih-lebih lagi untuk pencarum.
11. Perayu telah menyertai pertandingan mewakili majikannya dan sekiranya ia bukannya satu perkara yang tidak disokong oleh majikan, semestinya majikan akan menghalang Perayu sertai. Ini bermakna penyertaan telah disokong dan dianggap sebagai satu tugas oleh Majikan.
12. Oleh itu, JRKS mendapati bahawa Perayu telah mendapat kecederaan semasa menjalankan sebahagian tugas yang dibenarkan oleh Majikan dan termasuk di dalam tafsiran bencana pekerja dan layak untuk mendapat apa yang dinyatakan oleh Akta 4. Dengan itu rayuan Perayu diterima.”

[20] The SSAB committed an error when it disregarded proof of the elements advocated in *Gow Soo Tan (supra)*. The Respondent failed to fulfil the elements in the definition of employment injury in s 2(6) Act 4.

[21] This Court is satisfied that the Respondent’s injury is not an employment injury entitling him to temporary disablement benefits.

Decision

[22] For these reasons, this Court allows the appeal in encl 1 with no order as to costs.

