

DETAILS OF INTERESTING CLAIM

(From EAR & CAR - Third Party Liability - Existing and Surrounding Property IMIA Paper WGP40 (05))

No: DOIC19 (CAR/TPL)

Type of Insurance:

CAR/TPL

Description of damaged item:

Cross liability claim caused by the fire damage during the construction project

Cause of Loss:

(5) Fire

Claim Cost

Description of Incident and Loss Prevention Measures initiated:

Two working persons of one of these sub-subcontractors, according to their daily custom, started a small fire inside one of the buildings under construction in order to prepare tea. Due to the lack of other combustible materials on this particular floor, paint thinner was used to start and accelerate the fire. Unfortunately, after igniting the fire, a flashover to the tin container with the liquid occurred, resulting in a dart flame.

One of the workers suffered severe burns, which ultimately lead to a permanent partial disability. The project was insured under CAR with a TPL cover under Section II. Cross liability under Section II was granted under endorsement.

Outline the interesting or unusual aspects of this claim or problems experienced during settlement:

The policy did, as usual, exclude bodily injury claims for workers, which would fall under employer's liability schemes. However, the sub-subcontractor decided to lodge a claim against the CAR /TPL cover arguing that the developer as well as the contractors of first and second tier neglected their respective obligations to supervise the worksite security and prevent the foreign workers from using open fires for cooking. A broad interpretation of the cross liability clause was used in this case to demand compensation under TPL. The claim ultimately prevailed in court.

CODES

1. Type of Insurance

M - Machinery Breakdown

BE - Boiler Explosion

LP (M) M - Loss of Profits

ALOP (DSU) - Advance Loss of Profits

EAR - Erection All Risks

CAR - Contractors All Risks (Civil)

G - Guarantee

EE - Electronic Equipment

O - Other Classes

2. Cause of Loss

- (1) Faulty operation
- (2) Faulty material or workmanship
- (3) Faulty design
- (4) Other internal causes
- (5) Fire
- (6) Explosion
- (7) Storm
- (8) Earthquake
- (9) Other external causes
- (10) Other causes or unknown