

患者在醫院跌倒 之過失相抵

On the Comparative Negligence in Henc
of Slipping of a Patient at a Hospital

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摘要

原告X於被告Y所經營醫院，因積水滑倒而致骨折。X認為Y有硬體設置或維護上有瑕疵，因此向Y請求醫療費、交通費、休業損失與慰問金等損害賠償。Y則認為X滑倒的地方，是僅限員工通行之通道；且該通道為室外空間，其積水乃事前降雨所致，而非員工疏失。因此X既專著防滑力較差的拖鞋，並行走在員工限用之通道，自應留意腳下，是以Y主張過失相抵；此外，Y主張事後與X簽訂有償醫療契約，提供治療X骨折之服務，並保留醫療費之請求權。法院認為縱其通道乃員工專用，但Y既未標示清楚，也曾有員工引導X行走該通道，且通道結構與地面容易濕滑，故Y有維護瑕疵；

關鍵詞：侵權行為 (tort)、損害賠償 (compensation for damage)、滑倒 (slip)、過失相抵 (comparative negligence)

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惟X知悉通道為室外空間，穿著拖鞋在此行走必須更小心，因此就滑倒之損害發生有過失。另X與Y並未簽訂有償之醫療契約，則X提供之診療頂多是補償，而不能另外請求該診療之費用。

Plaintiff X suffered a fracture when he slipped and fell due to a pool of water at a hospital run by accused Y. X believed that Y had a defective hardware installation or maintenance, and therefore sought damages from Y for medical expenses, transportation costs, loss of employment and the mental compensation. Y argued that the place where X slipped and fell was a passage for employee only, and that the passage was an outdoor space and the water was caused by rainfall beforehand, not by employee's negligence. Therefore, X was wearing slippers with poor slip resistance and was walking in a passageway restricted to employees, so he should have paid attention to his feet. In addition, Y claimed that there was a medical contract between himself and X afterward, giving X the medical treatment for his bone fracture and having the claim right for the medical costs. The court held that even though the passage was for the exclusive use of the employees, Y didn't mark it clearly, and there were employees who guided X through there, and the structure of the passage and the floor were slippery easily. On the other hand, X, who knew that the passage was an outdoor space, should be more careful when walking there with slippers. Therefore he born the comparative negligence in respect of felling and the bone fracture. What's more, due to Y didn't make any onerous medical contract with X, there was for Y no claim right for the medical costs but only a countervail.

壹、事實概要

一、事件概要

本件原告X於被告Y所經營的醫院，因踩到積水跌倒而撞到左肩，導致肱骨外科頸骨折。X主張本件事故是院方在硬體的設置或維護上的瑕疵所造成，依侵權行為所生之損害賠償請求權，向Y求償包括醫療費、交通費、休業損失、慰問金和律師費等共約，1,852萬日圓。Y則主張，在X受傷後院方已提供共約116萬日圓的治療，且X也應負擔部分責任。本件系爭院方在硬體的設置或維護上是否有瑕疵，損害賠償金額及X的過失比例。

2017年12月9日，X至本件醫院接受健康檢查，櫃台人員指示X搭乘電梯至四樓的健檢場地，但由於電梯只有一部且需要等待，X選擇走員工用的樓梯上樓，到了四樓打開門卻找不到地點，折返三樓時被院內員工A叫住，A陪同X走上四樓，並指示其穿過本件通道（下稱通道）才能抵達健檢場所。X抵達健檢場地後換上醫院提供的簡易拖鞋，至三樓進行X光檢查。但當X再次從三樓返回四樓之際，卻於穿過通道途中不慎踩到積水跌倒。

二、雙方主張

Y主張，通道上方雖然有天花板遮蔽，但周圍沒有牆壁，算是室外區域，因而經常會被雨水淋濕。通道除院內員工外，其他人禁止通行。通道本身的結構和材質沒有違反法規，也沒有發生過員工跌倒等事故。此外，根據事發前一天的降雨情況，即使有積水也可認為是由於降雨造成，而非員工的疏忽所致。本件事故發生的主因是由於X行走在禁止一般患者進入的室外區域的通道上，卻穿著常見於商務旅館客房等室內場所的簡易拖鞋，在沒有充分了解通道狀況下疏於留意腳