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China - Silicosis Victim Wins Record Compensation after Three-year Fight for Justice (English)

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Press Release: Silicosis Victim Wins Record Compensation after Three-year Fight for Justice

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A jewellery worker in Guangdong who contracted life-threatening silicosis because of unsafe working conditions has been awarded record compensation of nearly half a million yuan, to be paid by his former employer, a Hong Kong jewellery manufacturer.

Feng Xingzhong, a 33-year-old Sichuan native, won his case on appeal in the Huidong County People's Court on 22 December 2005, after a three-year legal battle and amid a steady deterioration of his health. The court awarded Feng a total of 463,761 yuan, in a compensation package that included a lump sum payment of 219,000 yuan to cover Feng's long-term medical treatment (houxu zhiliao fei). With proper long-term treatment silicosis victims can survive for many years, but among 100 or so silicosis cases monitored by CLB, Feng's case is the first time that a court has awarded compensation on this vital count. Without regular long-term treatment, silicosis is a fatal disease.

China Labour Bulletin applauds the court's decision and we hope it will set a precedent for future compensation cases involving occupational illnesses in the Guangdong jewellery industry. While Feng and several other silicosis-afflicted jewellery workers have been awarded substantial amounts of compensation by the courts over the past year, most of the other 100 or so workers in Guangdong identified by Hong Kong labour rights groups who have contracted this deadly occupational disease have received little or no compensation. Moreover, these cases are the tip of the iceberg: according to the PRC Ministry of Health, around 440,000 Chinese workers currently have silicosis, but in April 2005 the ministry's own experts estimated that the real figure was ten times higher.

Silicosis is caused by prolonged exposure to airborne crystalline silica dust, a workplace toxin that drastically reduces the lungs' ability to extract oxygen from the air. A form of pneumoconiosis, the disease generally takes about eight years to develop before any symptoms appear, and by then it is basically incurable. The other main form of pneumoconiosis is "black lung disease," which typically afflicts coal miners. High levels of silica dust are found in numerous occupations including stone-working, tunneling, sandblasting and the glass, ceramics and fiberglass industries, and all those employed in these areas are at risk of developing silicosis unless appropriate health and safety regimes are rigorously observed.

For further information on the silicosis epidemic among Guangdong jewellery workers and their continuing legal battle for compensation, please see CLB's recently released research report, "Deadly Dust" - available here:

http://www.clb.org.hk/fs/view/downloadables/Deadly_Dust_Dec2005.pdf.

In addition, CLB's online campaign on this topic, where you can sign an appeal letter calling on the Guangdong authorities and the Hong Kong jewellery manufacturing industry to safeguard workers' basic health and safety, is available here:

<http://www.clb.org.hk/public/contents/campaign?revision%5fid=17964&item%5fid=17906>.

Background to the case of jewellery worker Feng Xingzhong

Feng started working as a stonecutter and polisher at the Gaoya Jewellery Manufacturing Plant (Gaoya Shoushi Zhipinchang) in Huidong County, Huizhou City in 1993. The factory was owned by the Hong Kong company Ko Ngar Gems Factory Ltd. In May 2000, following health check-ups on all employees, the factory manager informed Feng that he had contracted tuberculosis, which is infectious, and told him to take sick leave and get medical treatment.

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Feng received the sum of 2,000 yuan from the company and returned to his hometown to seek treatment. While at home, his health deteriorated steadily. In September 2002, the Sichuan provincial health authorities confirmed that he was suffering from second-degree silicosis.

On 17 November 2002, Feng Xingzhong lodged a compensation claim with the Labour Dispute Arbitration Committee (LDAC) of Haifeng County, where the company had by that time relocated under the new name of Gaoyi Gems Company Ltd. Although less than 60 days had elapsed since Feng's confirmed diagnosis of silicosis in September that year, the Haifeng LDAC nonetheless rejected his arbitration application on the grounds that he had "exceeded the [60-day] time limit for applying". Feng then pursued a compensation lawsuit against Gaoyi Gems, first at the Haifeng County Court and later (on appeal) at the Shanwei Municipal Intermediate Court. Both courts dismissed Feng's case on the false grounds that there had been "no employment relationship" between him and the Gaoyi Gems Factory. On 24 January 2005, Feng lodged a second application for arbitration of his compensation claim, this time at the Huidong County LDAC and naming the Gaoya Jewellery Manufacturing Plant (the factory's original name and location) as the respondent.

On 20 May 2005, the Huidong LDAC instructed Gaoya Jewellery to pay Feng Xingzhong a lump sum work-related disability award of 19,350 yuan, plus 12,900 yuan in reimbursement for medical fees, and also a disabled person's allowance of 806.25 yuan per month for the rest of his life. LDAC rulings are non-binding in nature, however, and since Gaoya Jewellery had already relocated its production facilities to another jurisdiction, there was virtually no chance that this ruling would be enforced. On 24 June, therefore, Feng brought a civil lawsuit against Gaoya Jewellery in the Huidong County Court and the hearing took place on 27 September 2005. On 22 December, the court awarded him the above-mentioned total of 463,761 yuan in compensation. It is unclear whether the Ko Ngar Gems Factory Ltd has lodged an appeal against the court's compensation award.

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