

Analysis Report on the Shanghai "11.15" Jing'an High-Rise Residential Building Fire

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Abstract

The devastating fire at No. 728 Jiaozhou Road, Jing'an District, Shanghai on November 15, 2010, caused immense loss of life and property damage, revealing a complex network of liability involving multiple stakeholders and various types of insurance. This paper takes this accident as a starting point, focusing on two core areas: community comprehensive insurance and commercial life insurance. It delves into controversies surrounding community comprehensive insurance, such as compensation limits, burden of proof allocation, and applicable payment rules. It also examines core issues in life insurance, including the determination of insurable interest, time limits for claims in special circumstances, and overlapping compensation under multiple policies. Legal analysis is provided in conjunction with the Insurance Law and related jurisprudence. Finally, corresponding solutions are proposed to address various legal issues, offering a reference for the standardized handling of insurance claims in major disasters and contributing to the full realization of insurance protection functions.

Keywords

Jiaozhou Road Fire; Community Comprehensive Insurance; Personal Insurance; Insurance Claims; Legal Improvement Path.

1. Case Summary

At 2:01 PM on November 15, 2010, a particularly serious fire occurred in a 28-story high-rise residential building at No. 728 Jiaozhou Road, Jing'an District, Shanghai. The building, completed in 1998, was a reinforced concrete shear wall structure with 28 floors above ground and one floor below ground, covering an area of 17,965 square meters. At the time of the incident, it housed 156 households and over 440 residents. At the time of the accident, the building was undergoing an exterior energy-saving renovation project. Construction workers were illegally welding on the 10th-floor scaffolding. Molten metal splashed onto the 9th-floor scaffolding protective platform, igniting polyurethane insulation material debris and flammable decorative materials piled up on the platform. The fire quickly spread upwards along the exterior wall, creating a large-scale three-dimensional fire, ultimately resulting in 58 deaths, 71 injuries, and direct economic losses of 158 million yuan ^[1]. The State Council's accident investigation team ultimately determined that this accident was a particularly serious responsibility accident caused by a combination of factors, including the company's illegal construction and chaotic management, inadequate supervision by relevant departments, and the illegal use of insulation materials that did not meet fire safety standards. The accident involved multiple responsible parties, including Shanghai Jiayi Construction Decoration Engineering Co., Ltd., the general contractor who illegally subcontracted the project to an unqualified individual; unlicensed welders; companies that produced and sold substandard insulation materials; property management companies that failed to fulfill their safety supervision obligations; and relevant administrative departments that neglected their supervisory duties. Ultimately, 26 individuals were held criminally liable, 28 received

disciplinary sanctions from the Party and government, and the relevant responsible entities bore civil liability for compensation.

In terms of insurance coverage, this case involved a complex network of insurance liabilities involving multiple entities and various types of insurance. According to official disclosures, a total of nine insurance institutions participated in the claims settlement for this accident, covering property insurance, life insurance, and pension insurance companies. Among them, the People's Insurance Company of China (PICC) underwrote the Shanghai Municipal Government-led Comprehensive Insurance for Fire Liability of Residential Buildings and Public Facilities (hereinafter referred to as "Community Comprehensive Insurance"); life insurance companies such as Sino-Italian Life Insurance Co., Ltd. underwrote some residents' self-purchased personal accident insurance and life insurance; and the construction company purchased construction-related liability insurance and construction worker accident insurance. As of November 19, 2010, the Shanghai insurance industry had paid out a total of RMB 7.7855 million in insurance compensation to affected residents and related entities, of which property insurance companies paid RMB 5.6465 million and life and pension insurance companies paid RMB 2.139 million. [2] As a policy-based insurance, Community Comprehensive Insurance played a fundamental protective role in this accident, becoming an important channel for affected residents to obtain initial economic compensation. In the post-accident compensation process, each family of the deceased received approximately 960,000 yuan in comprehensive compensation and relief funds, including workers' compensation, civil compensation, and government assistance. Damaged houses were repaired or compensated according to the principle of "market price, full compensation," and indoor property losses were assessed and compensated by a third-party professional appraisal agency. However, in the specific operation of insurance claims, there are disputes regarding the limits of community comprehensive insurance compensation, the allocation of the burden of proof, and the application of compensation rules, as well as core issues such as the determination of insurable interests in personal insurance, the time limit for claims in special circumstances, and the overlapping compensation of multiple policies. This article will analyze these issues from the perspective of these points.

2. Analysis of Legal Issues in the Case

2.1. Community Comprehensive Insurance

2.1.1. Legal Nature Definition

The Shanghai Municipal Comprehensive Insurance for Fire Liability of Residential Buildings and Public Facilities in Shanghai (hereinafter referred to as "Community Comprehensive Insurance") is a policy-based insurance project launched by the Shanghai Municipal Government in 2009. Its operating model involves government funding, street offices as policyholders, residents and owners of public facilities as insured parties, and insurance institutions undertaking underwriting business according to market principles [3]. From a legal perspective, this insurance has a dual nature: on the one hand, it is a public welfare and universal benefit, established to provide basic risk protection for residents within its jurisdiction, covering the entire population, with funding sources and protection objectives reflecting a public interest orientation; on the other hand, it is a commercial contract, its core basis being the insurance contract, and the rights and obligations between the policyholder and the insurer must follow the contractual rules of commercial insurance.

2.1.2. Claims Disputes and Legal Analysis

In this case, three core disputes erupted in the claims process of the community comprehensive insurance, becoming the focus of contention among all parties:

(1) The legality and reasonableness of the compensation limit

The dispute arose because, according to the then-existing unified terms of Shanghai's comprehensive community insurance, residential property damage was subject to a "dual limit" system: a maximum compensation limit of 50,000 yuan per household and a cumulative compensation limit of 3 million yuan per accident; personal accident compensation also had a "dual limit": a maximum compensation limit of 100,000 yuan per person and a cumulative compensation limit of 1 million yuan per accident. Some affected residents argued that these compensation limits were significantly lower than the actual losses to their homes and belongings, making it difficult to fully compensate for their economic losses. Therefore, they demanded full compensation exceeding the contractual limits.

Analysis : The agreed-upon compensation limit is legal and consistent with the policy-oriented insurance positioning. From a legal perspective, according to Article 11, Paragraph 1 of the Insurance Law, "When concluding an insurance contract, there shall be mutual agreement, and the rights and obligations of each party shall be determined in accordance with the principle of fairness," and Paragraph 2, "Except for insurance that is required by law and administrative regulations, insurance contracts shall be concluded voluntarily." The government, as the representative of the insured, negotiating the compensation limit with the insurance institution is essentially a contractual act concerning the core terms of the insurance contract. This agreement does not violate any mandatory provisions of laws and administrative regulations and is legally binding on the policyholder and the insured. From the perspective of the policy-oriented insurance positioning, the core function of community comprehensive insurance is to provide universal basic protection, not to fully compensate for losses. The setting of its limit must comprehensively consider core factors such as the affordability of fiscal funds and the universality of coverage. Setting an excessively high limit would significantly increase the fiscal burden and may lead to a reduction in the scope of coverage, contradicting its original intention of public welfare and universal benefit. Therefore, this limit agreement is reasonable ^[4].

(2) Fairness of the allocation of the burden of proof

Dispute : Due to the extreme destructiveness of the fire, most residents lost crucial documents for loss assessment, such as purchase certificates and property ownership certificates, making it impossible to meet the insurance company's standard requirements for proof of loss. The insurance company's compensation amount, based on "insufficient evidence," differed significantly from the actual losses claimed by the residents, leading to a heated dispute between the two parties regarding the allocation of the burden of proof.

Analysis : The allocation of the burden of proof must balance conventional rules with the specificities of the disaster. Article 22, Paragraph 1 of the Insurance Law stipulates: "After an insured event occurs, when requesting compensation or payment of insurance benefits from the insurer in accordance with the insurance contract, the policyholder, the insured, or the beneficiary shall provide the insurer with all available evidence and materials related to confirming the nature, cause, and extent of the loss of the insured event." This clause clarifies the insured's "obligation to cooperate in providing evidence," rather than an absolute burden of proof. ^[5] In this case, the fire is a sudden and highly destructive disaster, and the loss of evidence due to the disaster is inevitable. If the conventional standard of "providing complete supporting documents" is strictly applied, the insured will be unable to fulfill their burden of proof due to objective reasons, thereby indirectly depriving them of their legitimate right to compensation, which clearly violates the principle of fairness in the Insurance Law. Therefore, the rule of "relaxed burden of proof" should be applied, and the burden of proof should be reasonably allocated in light of the specificities of the disaster.

(3) Application of compensation rules

Controversy : For residents who suffer both personal injury and property damage, the core controversy centers on the exercise of two rights: first, whether they can claim both personal accident insurance and property damage insurance at the same time; and second, if they can claim both at the same time, whether there is a priority order for the payment of the two insurance benefits.

Analysis : Personal injury and property insurance claims can be made concurrently without any priority restrictions. This applies to personal accident insurance within community comprehensive insurance programs. Property insurance and personal injury insurance differ fundamentally in their insured objects: the former takes the insured's right to life and health as the insured object, while the latter takes the insured's ownership of their residence and indoor property as the insured object. They belong to different categories of insurable interests and do not conflict in rights. According to the legislative spirit of the Insurance Law and the principle of privity of contract in insurance, when an insured suffers losses due to different insured objects, they have the right to claim insurance benefits separately according to the corresponding insurance liability clauses. There is no priority between the two types of insurance benefits, and the insurer should pay the full amount according to law for each.

2.2. Personal Insurance Claims

2.2.1. Legal Nature Definition

The personal accident insurance and life insurance involved in this case both fall under the category of commercial personal insurance. Their operational model centers on a voluntary insurance contract between the policyholder and the insurance company. The policyholder pays the premium, and the insurance company pays the insurance money according to the contract when an insured event occurs. From a legal perspective, commercial personal insurance possesses three core attributes: First, it is a commercial contract, essentially a civil contract relationship between the policyholder and the insurer based on their free will. The contract terms must be determined through mutual agreement, and the establishment and modification of rights and obligations follow the relevant provisions of the Insurance Law and the Civil Code regarding contracts, completely distinguishing it from the policy-driven nature of community comprehensive insurance. Second, it is a fixed-amount payment, consistent with the fact that personal insurance uses the right to life and health as its insured object. The amount of insurance money is predetermined by the contract and does not need to be calculated based on the insured's actual loss. This is the most fundamental difference between it and the loss compensation attribute of property insurance (including the property loss protection portion of community comprehensive insurance). Third, it is personal in nature. The insurable interest is directly attached to the insured's person. When taking out insurance, the statutory requirements for insurable interest must be strictly met. The right to claim insurance benefits usually belongs to the insured or his/her designated beneficiary and generally cannot be transferred or pledged, reflecting the special protection of personal rights.

2.2.2. Legal Analysis of the Core Issues

(1) Regarding the determination of insurable interest

Problem : Although in this case the policyholder and the insured are mostly legal relatives such as spouses, parents, and children, which did not directly cause a dispute over insurance interests, in such major disasters, there may be implicit situations where the policyholder has no legitimate insurance interest in the insured but still enters into a contract. How to accurately define the scope of insurance interests and clarify the rights and obligations after the contract is invalid has become a potential problem in practice.

Analysis : Insurable interest is a statutory prerequisite for the validity of a life insurance contract. Although this case did not directly generate such a dispute, it provides clear judicial

guidance for similar cases. According to Article 31 of the Insurance Law of the People's Republic of China (hereinafter referred to as the "Insurance Law"), the policyholder must have an insurable interest in himself, his spouse, children, parents, and other family members or close relatives with whom he has a relationship of support, maintenance, or care; if he has an insurable interest in other persons, it must be based on the insured's consent or a legitimate economic interest. From the perspective of legal risk prevention and control, if the policyholder does not have a statutory or contractual insurable interest in the insured, according to Article 31, Paragraph 3 of the Insurance Law, the life insurance contract is invalid from the outset. After the contract is invalidated, according to Article 157 of the Civil Code of the People's Republic of China and relevant legal principles of the Insurance Law, the policyholder only has the right to request the insurer to refund the premium after deducting the corresponding handling fee, and has no right to claim insurance compensation. The core purpose of this rule is to prevent moral hazard and ensure that the conclusion of life insurance contracts complies with public order and good morals and legal provisions.

(2) Application of the statute of limitations for claims under special circumstances

Problem : According to the standard statute of limitations for claims, the statute of limitations for personal accident insurance is two years. However, in this case, some of the injured parties required long-term hospitalization due to the severity of their injuries, making it objectively impossible for them to submit a claim application within the statute of limitations period. This has led to the core of the dispute between the insurance company and the injured parties regarding whether they can claim compensation after the statute of limitations expires and how to determine the grounds for suspension of the statute of limitations.

Analysis : Article 26 of the Insurance Law clearly distinguishes the statute of limitations for personal insurance claims: the statute of limitations for life insurance claims is five years, and the statute of limitations for other insurance (including the personal accident insurance involved in this case) is two years, both calculated from the date the insured or beneficiary knew or should have known of the occurrence of the insured event. The special feature of this case is that some injured parties are unable to exercise their right to claim compensation within the two-year statute of limitations due to ongoing treatment. The core dispute lies in whether "ongoing treatment" constitutes a ground for suspension of the statute of limitations. According to Article 194 of the Civil Code of the People's Republic of China, if a party is unable to exercise their right to claim compensation within the last six months of the statute of limitations period due to force majeure or other obstacles, the statute of limitations is suspended; after the grounds for suspension are eliminated, the statute of limitations period continues to be calculated. [6] In this case, the injured parties require long-term treatment due to the severity of their injuries, objectively making it impossible to apply for compensation in a timely manner. This falls under the "other obstacles" mentioned in the aforementioned clause, meeting the statutory conditions for suspension of the statute of limitations. Therefore, insurance institutions cannot refuse to pay claims on the grounds of the expiration of the statute of limitations. The statute of limitations should continue to be calculated from the date when the injured person's treatment ends and they are able to apply for a claim. This measure is in accordance with the law and also takes into account the special circumstances of the injured in disasters and accidents.

(3) Regarding the overlapping compensation of multiple personal insurance policies

Problem : Some of the victims held multiple personal accident insurance policies. The beneficiaries claimed full compensation from all the policies, but the insurance companies disagreed on the legality of such compensation. The core disagreement lies in whether the loss compensation principle of property insurance applies to personal insurance and how to define the boundaries of compensation from multiple policies.

Analysis : The core of this type of dispute lies in the nature of personal insurance payments and the applicable boundaries of the principle of indemnity. According to Article 95 of the Insurance Law, personal insurance business includes life insurance, health insurance, and accident insurance ^[7], etc. Its core attribute is fixed-amount payment, meaning the insurance amount is predetermined by the contract and is not directly related to the insured's actual loss. This is fundamentally different from the indemnity attribute of property insurance. The core of the principle of indemnity is "compensation for loss," prohibiting the insured from profiting through insurance ^[8]; therefore, it applies to property insurance. Personal insurance, however, takes the insured's right to life and health as its insured object, the value of which cannot be precisely measured in monetary terms. Therefore, the principle of indemnity does not apply, nor is there any restriction against "double insurance." Accordingly, the beneficiary has the right to claim full, cumulative compensation based on multiple valid personal insurance policies. In this case, the rapid and full compensation from Sino-Italian Life Insurance and other insurance institutions for the deceased client's multiple accident insurance policies is a manifestation of strictly adhering to the core rule of fixed-amount payment in personal insurance and provides a clear operational model for handling similar cases in the industry.

3. Pathways to Improve Corresponding Legal Issues

3.1. Pathways for Improving Community-Based Comprehensive Insurance

3.1.1. Optimize the Dynamic Adjustment Mechanism for Compensation Limits to Balance Universality and the Level of Protection.

To address disputes over compensation limits, a dynamic adjustment mechanism linked to economic development levels and price fluctuations needs to be established. On one hand, a special assessment team, led by the government and comprised of insurance regulatory departments, insurance institutions, and resident representatives, should conduct regular (ideally every 2-3 years) surveys and calculations of the average value of residential renovations and indoor property within the region. Based on the affordability of public funds, the average and cumulative compensation limits for community comprehensive insurance should be reasonably adjusted to avoid insufficient protection due to long-term fixed limits. On the other hand, the functional positioning of policy-based insurance and commercial supplementary insurance should be clearly defined. Residents should be guided through official channels to purchase commercial property insurance based on their asset size, forming a multi-tiered protection system of "basic protection + voluntary supplementation." Simultaneously, the compensation limits and scope of application should be prominently displayed in insurance contracts to protect residents' right to know and right to choose, reducing subsequent claims disputes.

3.1.2. Establish Rules for Mitigating the Burden of Proof in Disaster Scenarios and Refine Practical Standards.

Given the unique nature of major disasters such as fires, the applicable scenarios and operational procedures for the rules on mitigating the burden of proof should be clarified at the legislative or industry standard levels. Firstly, it should be clarified that when the insured is unable to provide complete supporting documentation due to the loss of evidence during a disaster, they only bear the "preliminary burden of proof," meaning they only need to provide basic materials such as a fire accident report and proof of residence to prove the occurrence of the insured event and their status as the insured. Secondly, insurers should be given an "obligation to investigate and verify," requiring them to proactively verify losses through methods such as visiting neighbors, retrieving community registration records, and conducting on-site inspections in conjunction with third-party assessment agencies. They should not simply refuse or reduce compensation amounts based on "insufficient evidence." Thirdly, a loss

presumption mechanism should be established. For property losses that cannot be accurately calculated, the average loss level of similar housing types and decoration standards can be referenced, combined with reasonable statements from residents, to presume compensation and ensure fair and reasonable claims results.

3.1.3. Clarify the Compensation Rules and Standardize the Procedures for Cumulative Compensation.

To address disputes regarding claims for personal injury and property damage insurance, improvements should be made in both contract terms and industry guidelines. First, community comprehensive insurance contracts should explicitly stipulate that when an insured suffers both personal injury and property damage, they are entitled to claim separate personal accident insurance and property damage insurance benefits, with no priority between the two payouts; the insurer should process and pay them separately. Second, standardized claims processing procedures should be implemented, requiring insurance institutions to simultaneously verify both personal injury and property damage upon receiving a claim application, avoiding delays due to inefficient workflows. Finally, professional training for insurance practitioners should be strengthened to ensure they accurately grasp the compensation rules for different insured objects and clearly explain their claims rights to the insured, reducing disputes arising from misunderstandings.

3.2. Pathways for Improving Personal Insurance Claims

3.2.1. Strengthen the Insurance Interest Review Mechanism to Prevent Hidden Risks

To prevent moral hazard from insurance without an insurable interest, stricter scrutiny is needed throughout the entire process of application, underwriting, and claims settlement. First, the criteria for determining insurable interest should be refined, clarifying specific circumstances of "legitimate economic interests," such as employer-employee or creditor-debtor relationships. Applicants should be required to provide a written statement of their relationship with the insured and submit relevant supporting documentation at the time of application. Second, a pre-underwriting verification mechanism should be established. Insurance companies should use big data to verify information such as kinship and economic ties between the applicant and the insured, focusing on applications suspected of lacking an insurable interest, and requiring written confirmation from the insured when necessary. Third, rules for handling rights after contract invalidation should be clarified. If an insurable interest is found, the insurance company should promptly terminate the contract and refund the premium after deducting handling fees. Simultaneously, the relevant situation should be included in the industry risk warning system to prevent similar situations from recurring.

3.2.2. Refine the Applicable Rules for the Time Limit for Claims Settlement in Special Circumstances to Protect the Rights and Interests of the Injured Party

To address the issue of victims of major disasters being unable to apply for compensation in a timely manner due to ongoing treatment, the applicable circumstances for the suspension and interruption of the statute of limitations for claims are further clarified. Firstly, the judicial interpretation of the Insurance Law clarifies that "being unable to exercise the right to claim compensation due to severe injury and ongoing treatment" falls under "other obstacles," and the insured can still assert their right to compensation within six months from the date of completion of treatment. Secondly, a mechanism for informing insured parties of the suspension of the statute of limitations is established. When insurance institutions become aware that an insured is hospitalized due to serious injury caused by a disaster, they should proactively inform them of their right to the suspension of the statute of limitations and the applicable conditions, preventing injured parties from missing the opportunity to claim compensation due to a lack of understanding of legal provisions. Thirdly, claims application

procedures are simplified. For insured parties unable to handle claims in person due to serious injury, they are allowed to entrust relatives to handle the process on their behalf, and a green channel is opened to prioritize the processing of claims related to major disasters, improving claims efficiency.

3.2.3. Clarify the Rules for Overlapping Compensation in Personal Insurance and Unify Industry Implementation Standards

To eliminate discrepancies in understanding and implementation regarding cumulative compensation, the fixed-amount payment nature of personal insurance needs further clarification from a legal perspective. First, a new clause should be added to the Insurance Law, explicitly stating that the principle of loss compensation does not apply to personal insurance such as life insurance, health insurance, and accident insurance. The insured or beneficiary has the right to claim full cumulative compensation based on multiple valid policies, and insurance companies cannot refuse or deduct such claims. Second, unified industry claims guidelines should be established, requiring insurance companies to only examine core elements such as the validity of the policy and the scope of insurance liability during claims processing, without needing to verify whether the insured has received compensation from other policies. Finally, industry outreach should be strengthened, using official media and insurance company websites to popularize the rules of cumulative compensation in personal insurance, correcting the misconception that "multiple policies do not guarantee multiple compensations," and protecting the legitimate rights and interests of beneficiaries.

4. Conclusion

The insurance claims related to the Shanghai '11.15' Jing'an high-rise residential fire exposed numerous issues in both community comprehensive insurance and commercial personal insurance in China, both in terms of systems and practical operations, making it a typical research case for major disaster insurance claims. The core disputes between these two types of insurance in this case essentially reflect the contradictions between the universality and coverage of policy-based insurance, the contractual nature of commercial insurance and judicial fairness, and general legal rules versus the special circumstances of disasters. Analysis shows that community comprehensive insurance needs to balance fiscal affordability with basic coverage needs and adapt to special disaster claims rules; commercial personal insurance should adhere to fixed payment, personal exclusivity, and be clearly distinguished from property insurance rules. The proposed improvement paths address the issues from multiple dimensions including system design, rule refinement, and process standardization, which not only resolve the specific disputes in this case but also respond to common issues in similar disaster claims. In the future, it is necessary to continuously improve the adaptability of insurance legal rules to disaster scenarios, strengthen the complementarity between policy-based and commercial insurance, so that insurance can play a more central role in compensating for major disaster losses and enhance the risk-resistance capacity of the social security system.

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