

Risk Management During Sport Activities: Further Analysis Of The Recent Legal Case In Japan Regarding Foul Ball Damages On A Spectator In A Ballpark

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Aims

One of the key elements for solid sports development is risk management of accidents that are inherent in sports (Ishii, 2013). Following our presentation at EASM in 2016 (Ishii & Nakamura), which studied the first Japanese case that recognised the civil liability of the professional baseball clubs and stadium owners incurred by the foul ball damages on a spectator, we examined the impact of its second trial because the high court has changed its judgement.

Background

The idea of limiting the duty of cares regarding the ballpark ownership and management, which is also known as “the ball park rules”, has been widely recognised in US (Juliano & Healey, 2009), as well as in Japan. While the principle allows the industry to offer spectators more exciting experiences at the stadium with less obstruction of scenery. It means that spectators sitting in the area are provided a little but reasonably enough safety measures. Also, they are assumed to accept the risks inherent to the game, such as a foul ball and a flying bat, as a part of agreement which is usually stated on the back of the ticket. However, in the following case, Japanese court questioned such a broad application of the rules in order to protect the spectator, especially those who have difficulty in responding to such a fast moving object.

Case

Hokkaido Nippon-Ham Fighters, Sapporo Dome Co. Ltd., and Sapporo City v. X, Sapporo High Court (20 May, 2016; NE) No.157 of 2015.

On 21 August 2010, defendant X, a woman in her thirties, together with her husband and their three small children visited Sapporo Dome (a stadium/venue management) when the Fighters (a home time/event host) invited local children to the game conditional on their caregiver's escort. Although the invitation was to gain new fans who were new to the sport, the event organizer did not give additional caution when the husband was choosing the seating area for his family, which had higher possibility of a foul ball than other areas. Then, X was struck by a foul ball on her right eye during the game. Consequently, she lost her eyesight, and brought an action against the home team and the stadium, in addition to the city of Sapporo (venue owner) for not taking the necessary safety measures to protect spectators in the stand.

The original judgment at the lower court (*X v. Hokkaido Nippon-Ham fighters, Sapporo Dome Co. Ltd., 33 and Sapporo City*, Sapporo District Court (26 March, 2015; WA) No.1570 of 2012) acknowledged the defect liabilities of all the three entities. However, the second trial denied the deficiency of the three plaintiffs' liability regarding the installed safety procedures which were judged enough for the regular goers of a ballpark. However, regarding the duty of cares of the event host, the high court upholds the original judgment, by requiring them the additional responsibility for the concerning guest (Hatanaka, 2016).

Discussion

The original judgement rejects the principal of ballpark rules and ask the industry to fulfil the duty of cares in general, by reasoning that it was impossible for everyone in the stand to completely avoid a risk inherent to the sport through the entire game. Thus, the ruling could have made the stakeholders in the sector to take all possible safety measures which are very likely to compromise how they present the sport in a dynamic way.

However, by reinstating the ballpark rules, the second trial allowed the sector to keep offering an exciting experience to the fun on site with only the reasonable protection. At the same time, it also reminds the game organizers to consider their liability case by case. To summarize, the judgment this time will encourage the industry to seek the good balance of customers' expectations for both excitement and safety in stadium. Such a judgment will be helpful in advancing one of the crucial goals in the national sports basic plan renewed in 2017 that promotes the idea of attractive and profitable sports venues which offer an added-values experience to the spectators.

Meanwhile, for the salvation of these who are severely affected in sports accident, it is crucial for the sector to have the system to litigate the risks concerned. For reference, in 2015, The Sport Safety Association of

Japan launched the new liability insurance for sport and cultural facility owners and service providers which covers the damages onto all type of participation — as a player, a staff and a spectator.

References

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