

Thoughts on the Provisions of Beneficiaries in China's Insurance Law

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Abstract:

The beneficiary is an important concept stipulated in the insurance law, and the right to income is its legal basis. In specific judicial practice, how to determine the beneficiaries and how to deal with the loss of the right to income are issues that need to be explored. This article starts with the legal provisions on beneficiaries in China's Insurance Law. After theoretical analysis, the related theoretical and practical issues of beneficiaries are discussed.

Keywords: *insurance law, beneficiaries, discussion*

1. Introduction

China's "Insurance Law" stipulates insurance beneficiaries, but in the theory and practice of insurance law, issues such as the nature of insurance beneficiary rights, the content of insurance beneficiary rights, the exercise of insurance beneficiary rights, and the loss of insurance beneficiaries are still unclear. Many disputes in the insurance business are caused by the issue of insurance beneficial rights. Therefore, the discussion of the basic theory of insurance beneficiary rights has very important guiding significance for the practice of life insurance. Based on this, this article uses insurance beneficiaries as the starting point to discuss issues related to China's insurance law, focusing on the analysis of different situations of changes in insurance beneficiaries, with a view to improving the insurance justice and practice to a certain extent.

2. Beneficiaries of insurance

2.1 The concept and nature of insurance beneficiaries

The beneficial right of insurance is a very important concept in life insurance theory and insurance practice. There are two types of subjects of insurance contracts. One is those who are directly related to the insurance contract. Such subjects are called parties to the insurance contract, including the insurer and the insured. The second is those who have an indirect relationship with the insurance contract, that is, the parties to the insurance contract, including the insured, the policy owner, or the beneficiary. The beneficiaries of insurance are generated based on the second type of contract. The beneficiary refers to the person stipulated in the insurance contract. At the time of the occurrence of the insured event, the person who has the right to claim insurance benefits, that is, the person

designated to receive the insurance benefits, is also called the insurance recipient.

Regarding the nature of insurance beneficiary right, it is generally considered in theory as a property right, a claim right, and an expectation right. Firstly, insurance beneficiary right refers to the beneficiary's right to claim insurance benefits in accordance with the life insurance contract. This definition clarifies that the beneficiary right is a property right. Secondly, the insurance beneficiary right is a right of claim, where the beneficiary, as the right holder, has the right to request the insurer to compensate or pay insurance money when an insured event occurs. Thirdly, the insurance beneficiary right is a right of expectation. The beneficiary right can be transformed into a real property right only after the insured accident occurs. Before the insured accident occurs, the beneficiary only has the right of expectation. Therefore, the insurance beneficiary rights may be cancelled at any time due to changes or cancellations of the policyholder and the insured.

2.2 Provisions of Beneficiaries in China's Insurance Law

China's "Insurance Law" special provisions on beneficiaries mainly include the provisions on the meaning of beneficiaries; the provisions on the designation and change of beneficiaries; the insurance benefits are included in the inheritance; The "Insurance Law" provides that "beneficiary refers to the person in the life insurance contract designated by the insured or the insured with the right to claim insurance premiums, and the insured and the insured may be the beneficiaries." This article defines the concept of insurance beneficiaries.

Both the right to benefit from insurance and the right to inheritance are types of anticipatory rights, both of which are exclusive and have the possibility of loss. There are some issues that need to be explained between beneficiary rights and inheritance rights. This issue is also the focus of this article. The relationship between the two is mainly as

follows: First, the laws applicable to beneficiary rights and inheritance rights are different. The beneficial right to insurance is bound by the Insurance Law, and the inheritance right is bound by the Inheritance Law. Second, the subject of the right of beneficiary is different from the right of inheritance. The subject of the beneficial right of insurance is the beneficiary, and the subject of the inheritance right is the heir. Third, the obligations of beneficiaries and heirs are different. In summary, the beneficiary's insurance payment is based on the beneficial right set for the third party's interest contract, not the inheritance right. Therefore, insurance money shall not be inherited by the heirs of the insured, but may be inherited by the heirs of the beneficiaries.

3. SEVERAL QUESTIONS ABOUT INSURANCE BENEFICIARIES

3.1 Definition of beneficiaries of insurance

In life insurance, when the death of the insured is a necessary condition for an insured accident, in addition to the insured and the insured, the existence of a beneficiary is necessary in order to receive the insurance contract when the insured accident occurs. Benefits-the amount of insurance compensation. This is the origin of the establishment of the beneficiary system. In insurance theory, the beneficiary is usually listed as a related party of the insurance contract, not a party. This is because the policyholder has the right to negotiate with the insurer about the rights and obligations of the parties involved in the insurance contract, and can designate or change the beneficiary with the consent of the insured. In addition to beneficiaries requesting insurance benefits from the insurer according to the contract, the beneficiary does not have any other rights in the insurance contract and has no right to interfere in the insurance contract.

China's "Insurance Law" clearly stipulates that the beneficiary refers to the person in the life insurance contract designated by the insured or the insured person who has the right to claim insurance benefits. Regarding this provision, it is generally believed that the beneficiary of the insurance only exists in the life insurance contract, and even that the beneficiary of the insurance exists only in the death insurance contract in the life insurance. Some scholars have also defined the scope of existence of insurance beneficiaries in life insurance contracts. The reason for this definition is that, in addition to life insurance contracts subject to death, in other insurances, the insured still exists, and the insured or his guardian can exercise the right to claim insurance compensation.

However, the definition of the beneficiary of insurance is that it only exists in the life insurance contract where the death condition is the payment condition, which is still debatable. Based on the principle of autonomy of private law, the parties to a contract may agree to transfer the right to claim insurance compensation that may occur in the

insurance contract to a beneficiary, and this beneficiary becomes the only person with the right to receive insurance benefits. The Insurance Law regulates the norms of the relationship between insurance parties and participants. According to the principle of autonomy of private law, as long as the freedom of the individual's will does not violate social public interests and does not hinder the exercise of the rights of others, the individual's willingness to deal with his private rights should be respected. Therefore, in the field of property insurance, the right of the insured or the insured to designate beneficiaries should also be given. There are two main reasons for this. The first is that the act of the insured to dispose of his claim for insurance compensation has not harmed the public interest and the interests of any third party. Secondly, on the surface, the direct victim is the insured at this time, but the purpose of the insured to designate the beneficiary is generally to provide a guarantee to the beneficiary when an insured accident occurs. When the insurance situation occurs, the beneficiary will be somewhat indirectly damaged, so the designation of the beneficiary in the property insurance contract did not violate the purpose of the insurance contract.

3.2 Determination of beneficiaries of insurance

Article 60 of China's "Insurance Law" states that "the beneficiary of life insurance shall be designated by the insured or the insured", "the insured shall designate the beneficiary with the consent of the insured", "Where a person has limited capacity for civil conduct, his guardian may designate a beneficiary." This article is a specific requirement for the designation of a beneficiary. In practice, the following problems will arise.

One is when no beneficiary is designated. According to the first paragraph of Article 63 of China's "Insurance Law", if there is no designated beneficiary, after the death of the insured, one of the following circumstances, the insurance money as the insured's inheritance, the insurer to the insured's heirs Perform the obligation to pay insurance benefits. There are two ways to understand this requirement. One is that the beneficiary is the insured, and the other is that the beneficiary is the legal heir of the insured. We believe that the first idea is more in line with the purpose of insurance. This is caused by different provisions of the law on heirs and beneficiaries. The difference is that the beneficiary's receipt of insurance benefits is not tied, and he is not responsible for repaying the debts of the insured within the amount of insurance benefits. The heirs have the responsibility to repay the debts of the heirs within the scope of inheritance. The inheritance law of our country considers that the inheritance belongs to the heirs. Prior to the division of the estate, the insurance money was shared by the heirs, just like other property left before the life of the insured. The heirs had to enjoy both the rights of the inheritance and the obligations of the estate. According to this principle, there is a certain degree of uncertainty in insurance benefits,

which is inconsistent with the original legislative intention of insurance law on beneficiaries of insurance.

The second is the case of designating the beneficiary as the heir. In judicial practice, there are also those who designate "heirs" as beneficiaries in the beneficiary column. In such a situation, there are generally several different ideas. Mainly, one is that the insurance money is transferred to the insured's estate; the other is that the beneficiary of the insurance is the heir of the insured at the time of recording; the third is that the beneficiary of the insurance is the heir of the insured when the insured event occurs; To determine the true meaning. We believe that the third view is more convincing. Specifically, the first view is contrary to the true will of the insured, otherwise he would fill in himself in the beneficiary column. The second view is also inconsistent with the true meaning of the insured, because most of the insured hope that the insurance benefits can reduce the financial burden on the heirs and the like after his death. The scope varies. The fourth view is not very operable. The third view is that when the heir is appointed to receive insurance money, the heir in fact is the beneficiary, and of course the insurance money belongs to him, which is in line with the purpose of the beneficiary's income.

The third is about the death of the insured and the beneficiary at the same time. At this time, comprehensive considerations need to be made for comprehensive consideration, and the inheritance method cannot be simply applied to solve the issue of insurance benefits when the insured and the beneficiary die at the same time. First of all, death insurance is different from inheritance. It is not a specific material of the property left over from the predecessor, but it is generated after the death. Secondly, the presumption of simultaneous death in inheritance law is based on the mutual inheritance relationship between people, and the beneficiary and the insured are not limited to the inheritance relationship in the insurance contract. Instead, it should be stipulated that if the insured and the beneficiary die at the same time, the legal heir of the insured shall be the beneficiary unless the insured has designated the beneficiary separately. In the case where the beneficiary is a majority, if the beneficiary dies first, the insurance contract should be restored to a state where there is no designated beneficiary, and the insurance money should be shared equally by all other beneficiaries.

3.3 Loss of the right to profit of the beneficiaries of insurance

The right of beneficiary refers to the right to claim insurance benefits paid by the beneficiary in accordance with the life insurance contract. The insurance money obtained by the beneficiary is different from the insurance money obtained by the successor in accordance with the right of inheritance. The insurance money obtained is completely owned by the beneficiary. Article 64 of China's Insurance Law stipulates that the policyholder and the beneficiary intentionally caused the death or disability of

the insured. In case of illness, the insurer shall not be liable for payment of insurance benefits. If the applicant has paid the insurance premium for more than two years, the insurer shall return the cash value of the insurance policy to other beneficiaries with rights in accordance with the contract. If the beneficiary intentionally causes the death or disability of the insured, or attempts to kill the insured intentionally, the beneficiary right is forfeited. The two provisions of the article also raise related issues.

The first is the situation where the beneficiary loses the right of beneficiary and the beneficiary is one person. There are different legislative laws on the beneficiary's loss of beneficiary rights. One is that after the beneficiary has lost the beneficiary rights, it is deemed that the beneficiary has not been designated. Second, after the beneficiary loses the beneficiary right, the insurer is exempted from liability, but if there are other beneficiaries, the insurer shall pay the balance of the insurance compensation to the other beneficiary. Third, the insurer is completely exempt from liability. This is the viewpoint of Article 64 of China's Insurance Law. According to the provisions of this article, if the beneficiary intentionally caused the death, disability or illness of the insured, the insurer may be exempted from the liability to pay the insurance premium. Fourth, after the beneficiary loses the beneficiary right, the insurer is exempted only from the beneficiary, and still bears corresponding responsibilities to other rights holders. According to China 's "Insurance Law", if the beneficiary loses the beneficiary right or renounces the beneficiary right according to law, and there is no other beneficiary, after the death of the insured, the insurance money shall be regarded as the insured 's inheritance, and the insurer shall pass to the insured 's successor Perform the obligation to pay insurance benefits.

Through the above analysis, we can find that there are conflicts between different provisions of China's Insurance Law. From a reasonable point of view, when the beneficiary is alone, the absolute exemption is reasonable. In the designation of the beneficiary, if only one beneficiary is designated, the probability of moral hazard is highest, and the designation is made by the insured party, he must also bear the consequences of his designation and the resulting consequences. All risks. When the beneficiaries are several people, it is too harsh. First of all, it is unfair to other beneficiaries to bear the adverse consequences of claims for loss of insurance benefits caused by one beneficiary's illegal acts. Secondly, from the perspective of preventing moral hazard, only when a beneficiary who violates the law compares his situation with other beneficiaries is unfavorable, will he make a rational judgment instead. Therefore, we recommend that the insurer's exemptions from the insurer and the insurer's exemption from the beneficiary should be separately stipulated in the insurance law. Provided that this can effectively avoid such conflicts and ambiguities.

4. CONCLUSION

The relevant provisions of China 's insurance law on

insurance beneficiaries are scattered in the relevant provisions, forming the rules on the comparative system of insurance beneficiaries. However, the theoretical research and discussion based on judicial practice have not stopped, which is not only conducive to the improvement of the legal system, but also to provide ideas for the solution of related problems in practice. Regarding how to define beneficiaries of insurance, how to determine beneficiaries, and how to designate beneficiaries, there is still room for further improvement.

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