A Study on the Compensation for Medical Malpractice Liability

Recently, disputes related to medical malpractices and liability have continuously increased and expanded. The victims (patients) of medical accidents suffer physical damage directly related to their survival, so it is very important to provide prompt and fair solutions for the patients. In addition, it is necessary for doctors to strengthen the compensation system for medical liability in order to create a stable treatment environment. The medical malpractice insurance play a role to facilitate the compensation of patients and to relieve the economic burden of doctors and medical institutions.

In Korea, doctors and medical institutions join medical malpractice insurance union voluntarily, but they are not actively enrolled in insurance due to cost problems. Some states in the United Kingdom and the United States have a mandatory medical malpractice insurance system based on legislation, and Germany and Japan operate under the rules of doctors’ organizations or require insurance upon membership.

The major issues regarding the compensation for medical liability have been largely categorized into the mandatory medical malpractice insurance and the strengthening of compensation for victims of medical malpractices through the subrogation payment system for damage. The subrogation payment system cannot be a substitute for medical malpractice insurance. Even if compulsory medical malpractice insurance system is introduced, compensation for insurances cannot be completely remedied. Therefore, it is necessary to link between the two systems and allow subrogation payment system for damage to function as a safety net for areas exceeding the liability of the insurance.