

26th May, 1987

ROYAL COURT

Her Majesty's Attorney General

-v-

Channel Island Welding Ltd

The Solicitor General for the Crown

Advocate M.S.D. Yates for the Defendant

Judgment

DEPUTY BAILIFF: We welcome the fact that the defendant company has today admitted the offence and faced up to its responsibilities; we are bound to say that we are surprised, and regret, that it did not do so from the outset; the hearing had not advanced very far when we felt that the defendant company faced an uphill task in its defence; we are satisfied that the defendant company, through Mr. Stam its foreman, either did know that Mr. King used the machine from time to time and the purpose of its use or, he was grossly negligent in not knowing. The attempt of the defendant company, a company of some substance, to "wriggle" out of its responsibility for the accident, did not impress us. The fact that a contested trial had to be embarked upon, that $2\frac{1}{2}$ days have been taken up already, and further enquiries had to be made must, of course, be reflected in the costs to be paid by the defendant company. Clearly, Mr. King has been substantially vindicated by the further enquiries .

Therefore, although the admission of the offence is a mitigating factor, it affords much less mitigation than if it had been made at the outset.

The importance of thorough and correct training in the use of machinery cannot be over-emphasised and the Court will do everything in its power to enforce the Safeguarding of Workers legislation.

The earlier correspondence demonstrates that the defendant company really had no excuse at all - the letter of the 16th April 1985, enclosed several copies of the Machinery and Woodworking Machines Regulations; the letter of the 10th July, 1985, referred specifically to the circular saw; and in October 1985 there was an accident on the defendant company's premises involving the use of a hydraulic press brake in breach of the regulations. The previous conviction, although under different regulations was still under the Safeguarding of Workers Law, again the defendant company seeks to blame somebody else.

We do take into account the fact that since the accident to Mr. King the defendant company has made a considerable effort to improve safety standards in its factory, but we consider that the Solicitor General has given too much weight to the mitigation and that his conclusions are too lenient.

Fines imposed in cases such as this must be sufficient not only to mark the seriousness of the particular infraction, but also to deter other employers from any slackness in safeguarding the safety of their employees.

The Court is unanimous in its decision. The defendant company is fined the sum of £1,00 and will pay costs of £1,000.

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Authority referred to :-

Udini -v- Associated Portland Cement (1965) 2 AER 212