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ROYAL COURT
(Samedi Division)

177.

2nd September, 1994

Before: The Bailiff, and
Jurats Bonn and Le Ruez

The Attorney General

- v -

PDB Carpenters and Builders Ltd.

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1 infraction of the Health and Safety at Work (Jersey) Law, 1989: Article 21(1)(a) [bench saw accident].

PLEA: Facts admitted.

DETAILS OF OFFENCE:

Building work on the site of former Rouge Bouillon School. An "Elu" TGS bench and mitre saw in use without any top guard or riving knife. Saw blade therefore exposed and unable to keep freshly cut pieces of timber separated. Machine used by unskilled worker who (wrongly) thought he had been told to use the machine. Cut off small tip of his little finger when timber jammed on blade and lifted, pulling his hand onto the blade. The protective guard and riving knife had been left in a van on another site.

DETAILS OF MITIGATION:

Company with blameless track record. Accident resulted from misunderstanding an order "to get the timber sawn". Victim took this as an order that he [an unskilled worker] should work the machine. Real intention was that he should ask a skilled operator to work the machine.

PREVIOUS CONVICTIONS:

None.

CONCLUSIONS: £1,500 fine with £250 costs.

SENTENCE AND OBSERVATIONS OF THE COURT:

£1,200 fine with £250 costs. [There were certain exacerbating factors in *Benest* which were not present here; room for slight reduction in conclusions].

S.C.K. Pallot, Esq., Crown Advocate.
Advocate S.A.Meiklejohn for the Defendant.

JUDGMENT

THE BAILIFF: Both counsel in this case have used the case of A.G. -v- S.G. Benest & Son Ltd (11th January, 1991) Jersey Unreported, as a yardstick for determining what the appropriate sanctions should be.

The defendant company has pleaded guilty to the infraction of Article 21(4)(a) of the Health and Safety at work (Jersey) Law, 1989, inasmuch as it had not made sure that the knife and guard which were necessary when the cutting machine was being used other than in the mitre position, was brought from the last site where it had been so used at the Zoo and properly installed. Furthermore, the warning on the machine was encrusted with sawdust making it difficult for someone who was not an employee of the company to read, though we accept that great care has been taken by the two partners to ensure that their men are properly trained, as far as possible, to observe the safety requirements. Indeed we are satisfied that they have gone beyond the requirements and have introduced a dust hoover, which is not legally required.

There is no previous record in respect of this company and that is a matter of mitigation and, generally speaking, we are satisfied that they have done their best, during the four years that the company has been in existence, to comply with the requirements. However, against that, the law is quite clear. It is designed, of course, not only to require employers to follow proper safety measures, but to protect the negligent employee against injury.

Under all the circumstances, we can distinguish this case from Benest - we think it is not as serious as Benest's inasmuch as there was a younger person injured at Benest's - and we accept the explanation given by the company that the person injured was not actually invited to use the machine himself but was advised to get somebody from the workforce to do it for him. We are further satisfied that all the employees who used that machine are properly trained. However, under the circumstances, having regard to the injuries and the clear requirements of the Law, we think that the appropriate fine is one of £1,200 and accordingly the company is fined £1,200 together with £250 costs.

Authorities

A.G. -v- S.G. Benest & Son Ltd (11th January, 1991) Jersey Unreported.