IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 69

District Court Appeal No 20 of 2019

Between

Munshi Rasal

… *Appellant*

And

Enlighten Furniture Decoration Co Pte Ltd

… *Respondent*

JUDGMENT

[Tort] – [Negligence]

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Munshi Rasal
v
Enlighten Furniture Decoration Co Pte Ltd

[2020] SGHC 69

High Court — District Court Appeal No 20 of 2019
Choo Han Teck J
30 March 2020

6 April 2020 Judgment reserved.

Choo Han Teck J:

1 The appellant is a 28-year-old worker from Bangladesh. He worked in the respondent company as a manual worker whose job was to feed pieces of plywood through a laminating machine. The plywood would be placed on a conveyor belt roller and automatically moved along through a pair of connecting rollers.

2 As the plywood passes through the connecting rollers, laminate would be glued on the plywood. Occasionally, some glue would be stuck on the connecting rollers. According to the respondent, there is a standard procedure to remove this glue. First, the entire machine will have to be stopped. Sandpaper would be placed on the connecting roller and the machine will then be restarted. There will be some dust from the grinding of the glue. An airgun will then be used to blow away the dust. Finally, the machine is stopped again to have the sandpaper removed. After that, it will be restarted and production continues.

3 There would usually be two workers tending to the machine. The appellant was one of them. On 28 June 2015, he was instructed to clean the glue off the connecting rollers. His co-worker, Ali Mohammad Shah, went to collect the airgun, and it is during this time that the accident happened, in which the appellant's fingers were crushed by the connecting rollers of the machine.

4 The Workmen's Compensation Board assessed the workmen's compensation for the appellant at $43,464.88, based on his salary of about $902 a month. The appellant was not satisfied with the award and sued the respondent. His claim was dismissed by the trial judge below and the appellant appealed against that decision before me.

5 The appellant's case was based on the negligence of the respondent employer in not providing adequate supervision, training, and a safe system of work. But his evidence regarding all the aspects relating to work safety protocol and training fell apart when the trial judge found his evidence relating to matters of fact to be unreliable. The record and evidence support the trial judge's findings.

6 The trial judge disbelieved the appellant's testimony and pointed out aspects that tended to render his evidence unreliable. Contrary to his claims, the appellant was found to be one of the more experienced workers in relation to the machine's operation and maintenance. He also taught new workers how to operate the machine. It appears that the appellant's claim that he does not know how to stop the machine is untrue because, as Mr Ramesh Appoo, counsel for the respondent, pointed out, if the appellant had not pulled the emergency cord to stop the machine, the connecting rollers would have drawn in and crushed his entire hand, not just his fingers.

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7 The trial judge below also evaluated the evidence of Ali Mohammad and accepted that the machine had been switched off when he walked off to get the airgun. It is thus an obvious inference that the machine must have been switched on again by the appellant.

8 In my view, it is clear from the evidence that while Ali Mohammad was away, the appellant had indeed switched on the machine himself, and then tried to remove some dirt from the connecting rollers without stopping the machine. His fingers were caught between the connecting rollers and he immediately pulled the emergency cord to stop the machine before the rest of his hand was pulled through the connecting rollers.

9 I do not find the appellant's case that the respondent did not provide adequate supervision to be of any merit. No more than two workers were required to be on duty at the machine. There was no necessity to have a supervisor stand watch over the two men placing plywood on the conveyor belt roller. It would be an unreasonable demand given the nature of the safety risk present in this case.

10 The machine's connecting rollers may be dangerous only if it is running and a worker places his hand between them. But unlike some other machines, there was no need for any worker to put his hands anywhere near the connecting rollers when it is running. When anything needs to be done to tend to the connecting rollers, the machine has to be switched off; and in that state, the machine and its connecting rollers pose no danger.

11 Furthermore, to have any protective fencing around the connecting rollers in this machine makes no sense because when the connecting rollers are moving, no one needs to be near them. When they are to be tended to, the

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machine has to be switched off, and any protective fencing has to be removed. The appellant has made no reasonable suggestion as to what was required to make the operation of the machine safe such that his accident would not have occurred. I am in full agreement with the court below that the accident arose solely through the appellant's own recklessness.

12 The appellant's counsel, Mr Subbiah Pillai, submitted that it was wrong for the court below to have relied on *volenti non fit injuria* when that was not pleaded. Mr Appoo submitted in reply that it was in fact pleaded. "*Volenti non fit injuria"* is a Latin phrase expressing the principle that where a person has sustained injury in the course of an activity undertaken on his own volition, he has no one else to blame. In cases where this principle is invoked, the issues at trial usually concern the question of whether, on the facts, this principle applies. Although the defence did not use the phrase "*volenti non fit injuria*", the facts that the appellant had caused the accident by his own act had been pleaded in the respondent's defence and that was sufficient.

13 For the reasons above, the appeal is dismissed with costs to be taxed if not agreed.

- Sgd -
Choo Han Teck
Judge

Pillai Subbiah (Tan & Pillai) for appellant;
Appoo Ramesh (Just Law LLC) for respondent.

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