ROYAL COURT

11th October, 1991 148.

Before: The Deputy Bailiff, and
Jurats Vibert and Gruchy

Attorney General

- v -

Ready Plant Limited

OFFENCE:

Breach of Article 21(1)(e) of the Health and Safety at Work (Jersey) Law, 1989 - breach of duty under Article 3(1) - safe system of work.

PLEA:

Guilty.

DETAILS OF OFFENCE:

Permitted inadequately trained employee to lift a boat out of Rozel Harbour unsupervised using a 12 ton mobile crane. Crane fell off pier onto beach causing injury to driver (broken jaw bone) but to no one else. Boat destroyed.

DETAILS OF MITIGATION:

Company had delegated training to maintenance contractor.

PREVIOUS CONVICTIONS:

None.

CONCLUSIONS:

Fine: £5,000.00
Costs paid out: £2,052.00

Costs incurred: £500.00

SENTENCE AND OBSERVATIONS OF THE COURT:

Fine reduced to £4,000.00 plus costs of £2,552.00.

J.A. Clyde-Smith, Esq., Crown Advocate;
Advocate Mrs. S.A. Pearmain for the defendant.

JUDGMENT

DEPUTY BAILIFF: This is a difficult case and one where the Court would have been much assisted if it had been possible to hear evidence, and cross-examination in particular, even on a guilty plea. But no such request has been made and we have to do the best we can.

The defendant company has chosen not to use the special defence available to it under Article 22 of the Health and Safety at Work (Jersey) Law, 1989, in order to allege that its failure is that of another, we think correctly, because Mr. Blandin would have been very hard put to show that he had used all due diligence.

That being so, and in default of evidence, we have to approach our task on the basis that the defendant company is solely responsible for the infraction charged. Mr. Blandin has alleged either mistake, lack of memory or untruthfulness on the part of all of Mr. Tierney, Mr. Hanby and Mr. Norman, but we cannot accept those allegations, unestablished as they are, as mitigation.

We express surprise that a plant manager of a company can sign a certificate of competence for an employee of the same employer. We consider that there should be an independent certificate by a competent expert who would actually test the applicant for a certificate. We recommend that the Social Security Committee should give attention to the matter.

Moreover, we note that in the certificate Mr. Blandin certifies that he has inspected Mr. Tierney's operation of both the 18 ton and the 12 ton cranes. It seems that his personal inspection consisted of little more than believing that Mr. Hanby had trained Mr. Tierney. That is just not good enough.

As Crown Advocate Clyde-Smith said it was a serious matter for the defendant company to allow large machinery to be operated in a public place by an inexperienced and insufficiently trained operator.

Whilst we accept that members of the public attracted to the operation would not have stood below the crane, nevertheless Mr. Tierney was in a situation of grave danger and it was very fortunate that Mr. Norman declined to ride in the boat for the second lift.

In our view there must be a substantial penalty in any case of this kind and it must be sufficient to mark the gravity of the offence even to a substantial contractor.

At the same time we see some ground for reducing slightly the fine asked for by the fact that this is a first offence by a company which has operated so very many incident free hours.

Accordingly, we impose a fine of £4,000.

The defendant company will pay costs in the sum of £2,500.

Authorities

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

A.G. -v- S.G.B. (Channel Islands), Limited (23rd November, 1990) Jersey Unreported.