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CYPRUS TELECOMMUNICATIONS AUTHORITY
v.
IOANNIS KOUKOULLIS

[TRIANTAFYLLIDES, LOIZOU, HADJIANASTASSIOU, JJ.]

CYPRUS TELECOMMUNICATIONS AUTHORITY,

Appellants-Defendants,

v.

IOANNIS KOUKOULLIS,

Respondent-Plaintiff.

(Civil Appeal No. 4643).

Civil Wrongs—Negligence—Employer and Employee—Safe system of working—Duty of employer to provide a safe system of working for his employees—Principles—Causal connection between the breach of such duty and the injuries suffered by the workman—In the instant case the workman was the sole person to be blamed for the injuries he had suffered.

Safe system of working—Duty of the employer to provide such system for his employees—Breach—Causal connection—See above.

Negligence—Employers and employees—Duty of the former to provide safe system of working for the latter—See above.

Employer and employee—Safe system of working etc. etc.—See above.

In this case the appellants—defendants appeal against a judgment of the District Court of Nicosia whereby they have been adjudged to pay to respondent-plaintiff, one of their workmen, damages for personal injuries resulting from the negligence of the defendants-employers, in that they failed to provide a safe system of work. On the 21st July, 1965, the respondent-plaintiff was a member of a gang of workmen in the employ of the appellants, working under the supervision of a foreman and engaged in the process of running new lines near Paramali village; in the course of his work he started climbing up a pole; having reached the top of a ladder, which was leaning against the pole, he got hold of the first of a number of iron steps, fixed on the pole, in order to climb higher up and reach the height at which he was going to work. He grabbed the first step, and in order to reach the next one, he was raising himself up by pulling on the first step; at that mo-

ment this step got detached and he fell to the ground suffering serious injuries.

The trial judges found that the respondent-workman was to blame for his fall, in that he did not examine or secure the step in question. They held, further, that the employers-appellants were, also, to blame, because it was not proved that proper instructions, given to their workmen for their safety on such occasions, had actually been brought to the notice of the respondent; also, because the appellants had not taken all reasonable steps to see that such instructions were being followed by their workmen. Consequently, the trial Court held that liability had to be apportioned equally between the parties.

The instructions given for the purpose by the appellants to their workmen were quite strict and were to the effect that if a workman was going to go up a pole, by means of steps fixed thereon, he should first test each step, when he got hold of it, in order to see if it was loose or not, and, if he found it to be loose, he should make it tight, or otherwise change its position, before using it; such instructions amounted, indeed, in the opinion of the Court of Appeal, to a safe system of working. The trial Court found, however, that what happened in practice was that workmen were allowed to use steps which were a bit loose, it being left to them to decide whether to use them in such condition or whether to secure them before using them.

In allowing the appeal and holding that the respondent was the sole person to be blamed for his injuries, the Court:-

Held, (1). The law regarding the duty of an employer to provide a safe system of working for his employees has been expounded in many cases among which are the cases of *Winter* v. *Cardiff Rural District Council* [1950] 1 All E.R. 819; *Woods* v. *Durable Suites Ltd.* [1953] 2 All E.R. 391; *Qualcast (Wolverhampton) Ltd.* v. *Haynes* [1959] 2 All E.R. 38. The relevant principles are too well known and need not be repeated in this Judgment; the outcome of each particular case depends upon the application of such principles to its individual facts.

(2) The decisive factor in this case is the finding of the trial Court—which has not, and could not, be disputed

—that the respondent workman, apart from not securing the fateful step, did not even examine it properly. The respondent himself stated in his evidence that he felt the step in question to be "a bit loose" when he got hold of it, but that he did not "shake it to see whether it was firm", because other workmen had been working on that pole, and one of them had come down from it about half an hour earlier.

(3) So, once the respondent did not even test the step, in accordance with the practice, which the trial Court found that it was being followed by workmen such as the respondent, the issues of whether or not the safe system of work laid down by the appellants (*supra*) had been properly enforced or brought to the knowledge of the respondent did not have the slightest causal connection with the fall of the respondent; the only effective cause of such fall being the fact that he did not exercise reasonable care to examine whether or not what appeared to him to be a loose step was safe enough to be used by him; only if he had examined and found such step, though loose, to be safe for use, and he had used it without, in any case, making it tight, or changing its position, beforehand, could the said issues have any relevancy to the causation of the fall of the respondent.

(4) Consequently, the respondent is the sole person to be blamed for the injuries suffered by him and nobody else. Thus the appeal is allowed and as counsel for the appellants has, very fairly, not asked for costs, there will be no order as to costs.

Appeal allowed. No order for costs.

Cases referred to:

Winter v. *Cardiff Rural District Council*, [1950] 1 All E.R. 819;

Woods v. *Durable Suites Ltd.*, [1953] 2 All E.R. 391;

Qualcast (Wolverhampton) v. *Haynes* [1959] 2 All E.R. 38.

Appeal.

Appeal against the judgment of the District Court of Nicosia (Evangelides, Ag. D.J. & Vakis D.J.) dated the 31st

May, 1967, (4162/65) whereby the defendants were adjudged to pay to plaintiff the amount of £306.- as damages for personal injuries which he sustained in an accident in the course of his employment with the defendants.

A. Hadjioannou, for the appellants.

J. Mavronicolas, for the respondent.

The facts sufficiently appear in the judgment delivered by:—

TRIANTAFYLLIDES, J.: In this case the appellants-defendants appeal against a judgment given by the District Court of Nicosia, in civil action No. 4162/65, by virtue of which they were adjudged to pay to respondent-plaintiff damages amounting to £306, and costs.

The total of the damages, on a full liability basis, was agreed upon by the parties to be £612, and the trial Court was called upon to decide, only, the issue of liability; it held that liability had to be apportioned equally between the parties.

The salient facts of the case are shortly as follows:—

On the 21st July, 1965, the respondent was a member of a gang of workmen of the appellants, working under the supervision of a foreman and engaged in the process of running new lines near Paramali village; in the course of his work he started climbing up a pole; having reached the top of a ladder, which was leaning against the pole, he got hold of the first of a number of iron steps, fixed on such pole, in order to climb higher and reach the height at which he was going to work.

He grabbed the first step and, in order to reach the next one, he was raising himself up by pulling on the first step; at that moment this step got detached and he fell backwards to the ground, suffering injuries to his back and elsewhere on his body.

The learned trial Judges found that the respondent was to blame for his fall, in that he did not examine or secure the step in question. They held, further, that the appellants were, also, to blame, because it was not proved that proper instructions, given to their workmen for their safety on such

occasions, had actually been brought to the notice of the respondent; also, because the appellants had not taken all reasonable steps to see that such instructions were being followed by their workmen.

The law regarding the duty of an employer to provide a safe system of working for his employees has been expounded in many decided cases, among which are the cases of *Winter* v. *Cardiff Rural District Council* [1950] 1 All E.R. 819, *Woods* v. *Durable Suites Ltd.* [1953] 2 All E.R. 391, as well as *Qualcast (Wolverhampton) Ltd.* v. *Haynes* [1959] 2 All E.R. 38, which have been referred to in argument. The relevant principles are too well known and need not be repeated in this judgment; the outcome of each particular case depends upon the application of such principles to its individual facts.

The instructions given for the purpose by the appellants to their workmen were quite strict and were to the effect that if a workman was going to go up a pole, by means of steps fixed thereon, he should first test each step, when he got hold of it, in order to see if it was loose or not, and, if he found it to be loose, he should make it tight, or otherwise change its position, before using it; such instructions amounted, indeed, to a safe system of working.

The trial Court found, however, that what happened in practice was that workmen were allowed to use steps which were a bit loose, it being left to them to decide whether to use them in such a condition or whether to secure them before using them.

In this appeal we need not pronounce upon the correctness of the findings of the trial Court to the effect that the appellants did not bring to the knowledge of the respondent the need not to use, at all, loose steps, and that the relevant instructions, given by appellants to their workmen, were not being strictly followed by such workmen and they were allowed to apply them with some laxity.

Such findings are not, in our opinion, really relevant because the decisive factor in this case is the finding of the trial Court—which has not been disputed, and could not, on the evidence, be properly disputed, by counsel for respondent—that the respondent, apart from not securing the fateful step, did not even examine it properly.

It has been stated in evidence by respondent himself that he felt the step in question to be "a bit loose", when he got hold of it, but that he did not "shake it to see whether it was firm", because other workmen had been working on that pole, and one of them had come down from it about half an hour earlier.

So, once the respondent did not even test the step, in accordance with the aforementioned practice, which the trial Court found that it was being followed by workmen such as the respondent, the issues of whether or not the safe system of work laid down by the appellants had been properly enforced or brought to the knowledge of the respondent did not have the slightest causal connection with the fall of the respondent; the only effective cause of such fall being the fact that he did not exercise reasonable care to examine whether or not what appeared to him to be a loose step was safe enough to be used by him; only if he had examined and found such step, though loose, to be safe for use, and he had used it without, in any case, making it tight, or changing its position, beforehand, could the said issues have any relevancy to the causation of the fall of the respondent.

In our opinion, therefore, the respondent is the sole person to be blamed for the injuries suffered by him and nobody else; as a result, we have decided to set aside the judgment of the Court below to the extent to which the appellants were found to be, also, liable and were adjudged to pay damages and costs.

Thus, the appeal is allowed; but as counsel for the appellants has, very fairly, not asked for costs, we make no order as to costs regarding the costs before the trial Court or this Court.

Appeal allowed.
Order for costs as aforesaid.