

Employment Briefing

Solicitors

Employer liable for suicide of employee following accident at work

A recent House of Lords judgment in Corr (Administratrix of Corr deceased) v IBC Vehicles Ltd [2008] UKHL 13 has held that an employer is liable in damages to the widow of an employee who committed suicide some 6 years after an accident at work for which the employer had admitted negligent breach of the duty of care.

Kate Olpin reports.

Mr Corr, a maintenance engineer, suffered serious physical injuries in a work-related accident and as a direct result developed Post Traumatic Stress Disorder and severe depression eventually culminating in his suicide.

His widow brought a claim against the employer in the High Court under the Fatal Accidents Act 1976, which enables a dependant to claim for financial loss arising from a person's death if attributable to any wrongful act, negligence or default by some other party.

Her claim was unsuccessful at first instance. The matter went to the House of Lords and it agreed with the Court of Appeal's decision to reverse that judgment. The Lords made the following findings: -

1. The employer owed the deceased a duty of care encompassing physical and psychological injury. Since the accident at work was the cause of the depression, which in turn was the cause of the
2. Unlike some manifestations of severe depression, suicide was not considered, "so unusual and unpredictable" as to be beyond what was a reasonably foreseeable consequence of the employer's breach. The employer could therefore be liable for losses arising from the suicide.
3. As a result of the accident, the deceased was suffering from a severe depressive episode which, impaired his capacity to make reasoned and informed judgments. The suicide did not sufficiently break the chain of causation between the employer's original breach of duty and the losses attributable to the suicide. That legal principle was grounded in fairness and, "it was in no way unfair to hold the employer responsible for that dire consequence of its breach of duty, although it could well be thought unfair to the victim not to do so.
4. Although usually suicide could be deemed objectively unreasonable, in this case the act was induced by the employer's breach. Any argument that the chain of causation was broken by the

suicide, then but for the employer's original breach of duty the deceased would not have acted as he did in taking his own life. The suicide therefore fell within the scope of the duty of care.

deceased's unreasonable behaviour must therefore fail.

The decision represents a departure from previous case law, which demonstrated a reluctance to compensate losses flowing from suicide prior to its decriminalisation.

There was no reduction in the damages awarded to reflect contributory fault of the deceased. The Lords did consider that possibility in similar circumstances, imagining a 'spectrum of cases' with the reasonably sound of mind at one end, where a contributory reduction might be envisaged, in contrast to those at the opposite

end of the spectrum, whose psychological state, induced by their employer's negligence, was such as to overpower their freewill and vitiate culpability.

This decision highlights the importance for employers to take active steps where an injury at work is sustained and which may result in a depressive illness, to actively provide support and counselling to the employee.

If you require further information arising from this article, then please do not hesitate to contact Sejal Raja at sejal.raja@rlb-law.com.

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Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.