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VERDICTS & SETTLEMENTS

Products Liability- Screw Conveyor-Amputation of Arm

\$925,000.00 Settlement

On January 5, 1989, plaintiff was working at a paper recycling plant cleaning out a screw conveyor which he had first turned off. The screw conveyor was located outside the plant on a catwalk and out of sight from the on/off switch. The plaintiff failed to lock out the switch after he turned the switch off. While the plaintiff was cleaning out the debris from the screw conveyor with his bare hands, not using a metal bar provided by his employer, the machine started up. Plaintiff attempted to remove his arm from the machine but the machine's force crushed his fingers, hand and then severed his arm a few inches below his shoulder as he attempted to remove his arm. Plaintiff remained conscious during the entire time his arm was severed.

Suit was brought against the third-party electrical contractor who had installed the electrical wall switch and wiring to the screw conveyor. The conveyor had been constructed and placed out on the catwalk by plaintiff's employer. Defendant claimed that it provided an appropriate on/off switch for the conveyor and plaintiff failed to lock it out with the lock provided by his employer. Defendant claimed responsibility only for wiring the machine from the wall to the mo-

tor which was inside the building. Defendant also claimed that employer was liable for having placed the conveyor outside the building on the catwalk.

Plaintiff's counsel retained electrical wiring experts who would have testified that the defendant's installation of the on/off wall switch out of sight of the machinery; and its failure to obtain requisite permits, to provide kill switches, warning devices, trip lines within immediate reach of the operator were all negligent acts. Counsel had constructed a scale model of the screw conveyor with the recommended kill switches, warning devices and trip lines as demonstrative evidence for the jury.

Defendant claimed plaintiff was comparatively negligent for having put his hand in a machine while it was on. There were no witnesses to the plaintiff switching off the machine nor to anyone else turning the machine on while plaintiff was on catwalk. Plaintiff had expert testimony from an orthopedist who had treated patients who sustained injuries in an auger similar to the one that injured the plaintiff. The orthopedist reviewed the lacerations and crushing injuries shown on color slides of Plaintiff's severed arm and in X-rays, and would have testified that the physical evidence established that the machine was off when plaintiff placed

his hand in the machine. Plaintiff's expert engineer would have testified that it was physically impossible for plaintiff to place his arm that deep in the machinery unless it had first been turned off. Counsel had prepared blowups of the X-rays and color medical illustrations showing how plaintiff's arm was severed by the machine.

Settlement was arrived at immediately before impaneling the jury.

Type of action: Products liability

Type of injuries: Traumatic amputation of dominant right arm

Court/Case #: Middlesex Superior Court, C.A. No. 89-4867

Judge or jury: Judge

Name of judge: Thomas E. Connolly

Special damages: Medicals, approximately \$10,000

Damages awarded or settled: Settled

Amount: \$925,000.00

Attorney for plaintiff: Kenneth I. Kolpan, Law Office of Kenneth I. Kolpan, Boston

Attorney for defendant: Withheld

Name of case: Marsou v. R & D Electrical Company, Inc.

Insurer: Withheld

Highest offer: \$925,000.00

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