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Accidental Workplace Related Deaths: Are Employers Ever Liable?



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Accidental Workplace Related Deaths: Are Employers Ever Liable?

The legislative changes of the last century have done a lot to improve worker safety in the western world rendering the attempts to ascribe workplace fatalities as premeditated murder on behalf of an employer as unsustainable as ever.

When employers show gross negligence in providing for a safe work environment, they should be charged with manslaughter and should not be charged with murder unless it was willfully premeditated. Employers care about work getting done and do not want to see any of their employees suffer accidents in part due to moral decency but also because it is against their financial interests: a workplace related accident at a minimum is detrimental to the morale of the employer's workforce. Even when they negligently put an employee in harms way resulting in their accidental death, employers should only be charged with manslaughter and get prison time and fined. The charge of murder should be reserved for those that commit the act with premeditation and with motive and not for those who are merely negligent. On the civil side employers should be liable for wrongful death in any case their employees die in an incident brought upon by negligence.



"It's OK, folks! 'Apparently' he can fly!"

Ex.1. CartoonStock.com. Superman. 2005.

BACKGROUND

“At the beginning of this century, workers in the United States faced remarkably high health and safety risks on the job. Through efforts by individual workers, unions, employers, government agencies, scientists such as Dr. Alice Hamilton, and others, considerable progress has been made in improving these conditions. Despite these successes, much work remains, with the goal for all workers being productive and safe working life and a retirement free from long-term consequence of occupational disease and injury.” (MMWR)

Work related death or injury has always been a factor taken in consideration by employees. In a capitalistic system where workers are free to choose their professions higher salaries and/or other benefits has have almost always been offered to entice people into choosing higher risk careers. In a free market system employees have always been free to change jobs if they thought that they were being exposed to

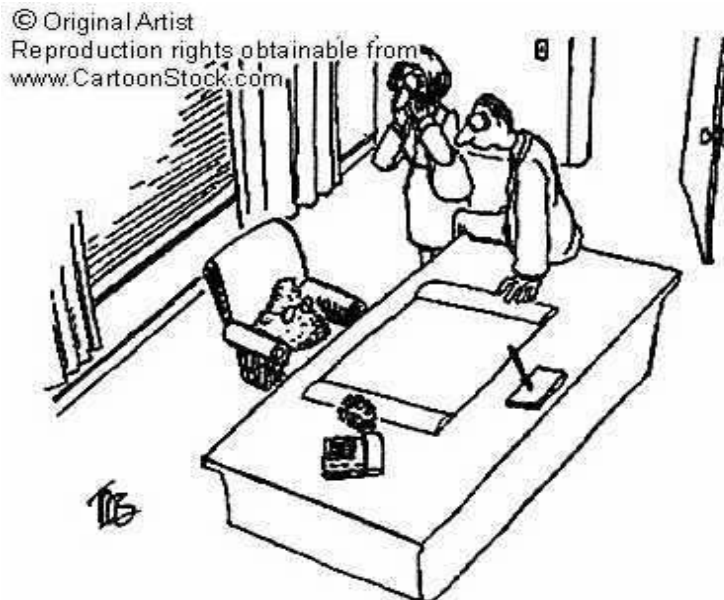


unnecessary and unreasonable risks in their job. This common sense approach is typical of employees that are looking out for their self-interest.

Employers besides from having to consider the ethical ramifications of a safe work policy are forced to maintain safe working environments in an effort to retain the ability of attracting and hiring qualified personnel but also because workplace related deaths almost always result in disastrous financial consequences. An employer's primary goal is to be able to operate a profitable business and must also be able to be able to provide a reasonably safe working environment. If the employer is involved in a business such as underwater welding, underwater demolitions, police work, and fire protection they must take the necessary legal steps through awareness training, life insurance, waivers, and such to make it very clear to the employee as to what risks they are taking on.

During this century the government has taken additional steps to ensure that companies adopt safe workplace policies so that unethical businesses that would consider adopting business unethical practices involving safety that would lead to financial ruin do not have an opportunity to do so. An example of such regulations is OSHA which regulates standard safety requirements in the construction industry.

“Despite the accomplishments described in this report, workers continue to die from preventable injuries sustained on the job. Ongoing efforts to address important workplace hazards include conducting field investigations of fatalities in high-risk occupations and industries, such as the Fire Fighter Fatality Investigation and Prevention Program, establishing a research center to facilitate childhood agricultural injury prevention (National Children’s Center for Rural and Agricultural Health and Safety), and developing educational materials for worker protection, such as Preventing Homicide in the Workplace.” (MMWR)



"Maybe we should have listened when he complained about the flourescent lighting."

Ex. 2. CartoonStock.com. Fluorescent Lighting. 2005

During the past two decades, a growing number of manslaughter and even murder charges have been brought against employers in cases involving the death of workers on the job. Although, this is an alarming trend that may lead some to believe that employers have become more negligent than in the past it is merely a reflection of the surge of legal professionals that entered the market in the mid-seventies and beyond who have been trying to make a living by seeking hefty financial settlements

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from companies whose employees have suffered accidental deaths. The focus of such legal professionals is usually not whether employers provide a reasonably safe environment but that they failed to provide an entirely safe working environment. Failure for such an unreasonable goal is ultimately paid by the workforce that would otherwise stay employed or be hired when companies are financially penalized or shut down through legal action.

“During the past 2 decades; a growing number of manslaughter and even murder charges have been brought against employers in cases involving the death of workers on the job. Despite an increased federal presence, the activities of state and local district attorneys perhaps signal a redefinition of the popular understanding of employers? Responsibility in maintaining a safe workplace. (Am J Public Health. 2000;90:535-540).” (Rosner)



"By the by, what happened to the last VP of Personnel?"

Ex.4. CartoonStock.com. Last VP. 2005.

CONCLUSION

The legislative changes of the last century have done a lot to improve worker safety in the western world rendering the attempts to ascribe workplace fatalities as premeditated murder on behalf of an employer as unsustainable as ever.

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