

OSHI v Pallet World Limited

2025 IND 27

THE INDUSTRIAL COURT

CN: 88/23

In the matter of: -

MINISTRY OF LABOUR, HUMAN RESOURCE DEVELOPMENT AND TRAINING

(OSHI)

v/s

PALLET WORLD LIMITED

SENTENCE

A. Background

1. The accused stands charged with the offence of failing to ensure the safety and health at work of its employees in breach of Section 5(1) and Section 94 (1) (i)(vi) of the Occupational Safety and Health Act – Act No 28 of 2005 coupled with Section 44(2) of the Interpretation and General Clauses Act.
2. The accused company was duly represented by one Mr Callychurn and was not represented by Counsel.
3. The accused pleaded guilty of the charge.

B. Court's Assessment

4. For the purposes of the hearing the prosecution produced from the outset one medical certificate, marked as Doc A. which were not objected to.
5. Mrs Rosunee, witness 1, who enquired into the matter, produced the out of court statement of the accused, Doc B and snapshots, Doc C (collectively). The

witness stated that after her enquiry, she drew up a report and same was produced, Doc D.

6. The accused did not cross-examine the witness.
7. The representative of the company offered his apology.
8. The court has taken into account the relevant documents produced, the apology from the representative of the company and the clean record of the company.
9. According to **Section 5(1) of the OSHA**:

“5.General duties of employers (1) Every employer shall, so far as is reasonably practicable, ensure the safety, health and welfare at work of all his employees”

10. Furthermore, the Supreme Court in the case of **General Construction Company Limited v. Occupation, Safety and Health Inspectorate, Ministry of Labour, Industrial Relations and Employment**¹, highlighted that ***“the legislator’s intent behind OSHA is to ensure the safety of workers and OSHA therefore sets out the responsibilities of the employer in that regard.”***
11. Now it is clear from the evidence on record that the accused company has failed to ensure the safety of its workers. The medical certificate of Mr Hossain Alamgir mentioned that the right index finger was amputated, Doc A.
12. By virtue of **Section 94(1)(i)(vi) of the OSHA**, **any person who contravenes a provision of the Act shall commit an offence**. Therefore, pursuant to **Section 94(3)(b) of the OSHA**, the accused company, as employer, has rendered itself liable ***“to a fine not exceeding 75,000 rupees and to imprisonment for a term not exceeding one year”***.
13. Reference is made to the case of **Mosaheb v. The State**², where the Supreme Court held that ***“the sentence in each case has to be determined in accordance with the facts and circumstances surrounding the commission of the particular offence and the other relevant personal circumstances of an accused party”***
14. Often times, the Supreme Court has stressed the need to apply the principle of proportionality to reach the appropriate sentence in any given case.³

¹ (2020) SCJ 40

² (2010) SCJ 150

³ Hossen v. The State (2013) SCJ 367

15. The Court has considered all the evidence on record and it is apparent from what is born out on record that the accused company has failed to adhere to the safety of its employee. The Court also bears in mind the clean record of the accused company and the timely guilty plea, which are strong mitigating factors.
16. In the circumstances, given the above, the Court sentence the accused company to pay a fine of Rs10,000/-. The Court further orders that accused pay Rs200/- as costs.

S N Ganoo-Arekion (Mrs)

[Delivered by: S N Ganoo Arekion (Mrs), Ag. President, Industrial Court]

[Delivered on: 7 April 2025]

