

OSHI v SDY Trading Ltd

2025 IND 73

THE INDUSTRIAL COURT OF MAURITIUS
(Criminal Side)

In the matter of:-

CN 224/2024

OSHI

v.

SDY Trading Ltd

SENTENCE

1. The Accused company has pleaded guilty to an information charging it with failing to ensure the safety and health at work of an employee in breach of sections 5(1)(2)(a) and 94(1)(i)(vi) of the Occupational Safety and Health Act 2005 (OSHA). The Accused stands convicted.

2. A hearing was held into the circumstances of the offence. The evidence ushered in by the prosecution shows that on 14 October 2020 at Jin Fei, Riche Terre, one Désiré Errol Seesahye, who was employed as mechanic by the Accused, was involved in the reparation of the sliding ramp of a trailer attached to a lorry when suddenly the ramp fell on the latter. Mr. Seesahye suffered craniocerebral injuries and died on the spot. Enquiry revealed that the ramp was not properly secured at the time of the accident and that there was no safe system of work for mechanical intervention on vehicles. An oil leakage in the hydraulic circuit of the right ramp was detected in the course of the investigation, which leakage caused the piston to lose hydraulic force holding the ramp upright resulting in its fall.

3. The Accused company has, through its representative, admitted the facts of the case in its out-of-court statement. It has pleaded guilty and has one previous conviction for a non-cognate offence. The Accused's director gave evidence to the effect that the safety issues at the company have been resolved and that the insurance company has compensated the family of the victim. She stated that the Accused company, which she inherited from her deceased husband, was in financial difficulties. She prayed for leniency from the Court. She was not cross-examined.

4. In **General Construction Company Limited v. Occupation, Safety and Health Inspectorate, Ministry of Labour, Industrial Relations and Employment (2020) SCJ 40**, the Supreme Court 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.*"

5. According to section 5 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.

(2) The employer shall, so far as is reasonably practicable, in particular—

(a) (i) provide and maintain a working environment;

(ii) provide and maintain any plant or system of work;

(iii) maintain any place of work under his control, including the means of access to, or egress from it,

that is safe and without risk to health;

...".

6. By virtue of section 94(1)(i)(vi) of the OSHA, any contravention of the above constitutes an offence. As employer, the Accused has rendered itself liable "*to a fine not exceeding 75,000 rupees and to imprisonment for a term not exceeding one year*" pursuant to section 94(3)(b) of the OSHA.

7. In **Mosaheb v. The State (2010) SCJ 150**, 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.” In **Hossen v. The State (2013) SCJ 367**, the Supreme Court stressed the need to apply the principle of proportionality to reach the appropriate sentence in any given case – *vide also Lin Ho Wah v. The State (2012) SCJ 70.*

8. In view of all the foregoing factors, I sentence the Accused to pay a fine of Rs 20,000. The Accused is also ordered to pay Rs 200. as costs.

23 October 2025

M. ARMOOGUM

Magistrate