



A recent case has highlighted the dangers of requiring employees to work long hours; placing their safety at risk whilst driving home.

The Court of Appeal ruling found a firm liable for a road accident in which one of its workers was severely injured. The employee fell asleep at the wheel and the accident left him paralysed.

The ruling will enable him now sue his employers for damages expected to be in excess of £1m. The employee has already been awarded an interim £400,000 payment.

However, the final award will be reduced by 33% as the employee was not wearing a seatbelt, and because he knew he was at risk of falling asleep. At the time of the accident the employee had worked a 19-hour day and driven hundreds of miles. He had arrived at work at 3.30am after just four and a half hours' sleep and then set off to fit a kitchen 111 miles away. He shared the driving and work with the company's MD and they finished the first job at 2.30pm. They then travelled to a second job 122 miles away, which they finished at 7pm. They then travelled home instead of stopping somewhere for the night.

In the original judgement at the High Court in Leeds the employee was judged to be at blame for the accident. His driving was described as "grossly irresponsible and dangerous". Whilst driving he had received and sent text messages. The Court of Appeal's decision overturned this previous High Court ruling and ruled that the company's long-hours culture was the primary cause of the accident. In reaching this decision they took in to account comments made by the MD, such as "eating's cheating" and "you can sleep when you're dead". In the judgement one judge said that he was "in that predicament because his employers had put him there."

This case should be taken as a warning to employers who allow their employees to work very long hours, and to drive at times when they are likely to be very tired. Practices of this type which are only occasional should not be ignored and risk assessments should be carried out when considering an operation that could involve long hours combined with driving. Driving home after work should not be ignored as employers may still be liable if an accident occurred to an employee on his way home after working excessive hours.

In this particular case booking in to a hotel or B&B close to the second job would probably have prevented this accident. We are aware of organisations that provide this facility but employees prefer to get home. In such circumstances we would suggest that employers insist upon the overnight stay.

Does ruling affect your employees or your overnight or driving policy? For a free review of your contracts and employee handbooks please call the team on 0870 240 1919 or email info@hrdept.co.uk

