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Company sentenced after Chinese workers hurt

Injuries suffered by two Chinese guest workers in Australia on Section 457 visas have cost Campbellfield company, Lakeside Packaging Pty Ltd, a conviction and fines totalling \$100,000 today.

WorkSafe Victoria prosecuted the company which pleaded guilty to seven workplace health and safety charges. It's thought to be Australia's first prosecution in relation to people hurt while in Australia on these visas.

One man's arm was crushed in an unguarded printing press; the other had two arms broken in separate incidents a few weeks later.

Broadmeadows Magistrate Charlie Rozencwajg (pron Rozen-scwarz) said the case should send a strong message to employers with foreign workers to ensure they were trained in their own language.

WorkSafe is investigating four other cases involving injuries to people in Victoria on s457 visas.

WorkSafe's acting executive director, Stan Krpan, said all workers were legally entitled to a safe workplace irrespective of their employment or immigration status.

"The requirements for employers to provide and maintain a safe workplace have been in place for more than 30 years. There's no excuse not to do it," Mr Krpan said.

"Employers must ensure people are not put at risk. They must be qualified for the work asked of them, they need instruction in their own language if necessary and they must be supervised.

"These people are among the most vulnerable in the community. They may not understand Australia's safety requirements and be at a disadvantage because of their cultural background or circumstances of employment.

The court was told Guoping Cai (35) was hurt on 16 March 2006 when his arm was crushed in an unguarded printing machine as he cleared a paper blockage.

Both bones in his right forearm were broken and he was in hospital for two weeks. Plates and bolts were put in his arm and he required a skin graft. He has been told he will never again be able to fully straighten his arm.

Mr Rozencwajg said that when WorkSafe investigated the incident more faults were found on the machine while on a similar unit, the guarding had been circumvented.

He said the business owner also used the machines and must have known it was in an unsatisfactory state. Safety improvements were later made at minimal cost.

The second and third incidents involved Zhi Hong Fu.

Mr Fu (52) fell from a ladder which had been put on top of a steel working platform on 5 April 2006. He was doing electrical work for which he was not qualified in Australia and broke his right wrist and chipped two teeth.

He was given pain killers and was sent home to rest. Another worker later took him to a doctor who referred him to the Epping hospital.

His arm was put in plaster and he was given a medical certificate for 10 days' rest, but after speaking to his employment agency he returned to work on 10 April.

Mr Fu was then given work that involved the use of both hands.

On 30 June, with his injured right arm now in a brace, Mr Fu was working with the company's director Menol Najdovski to erect a scaffold. As he had never erected a scaffold he followed Mr Najdovski's gestures and words.

Using a two-handed drill he suffered a second injury while drilling into metal plates.

He used his left arm to steady the drill but it jammed and kicked back against his left wrist but despite it being painful, he kept working having been told earlier that the job had to be finished that day. The latter work included welding and cutting steel.

After work he was taken to Epping Hospital by another worker where his left arm was put in a cast. He was given a medical certificate saying he would be unfit to work for ten days.

On 10 July he was asked to return to work and directed to disassemble a machine. At the end of the day he was given a letter, in English, which warned that his job was at risk if his performance, particularly in the area of safety, did not improve.

Mr Krpan said next week's launch of a new WorkSafe advertising campaign targeting the regulator's enforcement role was a reminder that safety had to be a priority.

"WorkSafe is serious about ensuring Victorian workplaces are as safe as they can be."

The charges:

Under the *Occupational Health and Safety Act 2004* ("OHSA"), the charges related to

- 3 x failure to provide safe plant and systems of work (Section 21(1) & (2)(a));
- 3 x failure to provide the necessary information, instruction, training and supervision to enable employees to work safely (Section 21(1) & (2)(e); and
- Failure to provide information to employees in an appropriate language (namely Mandarin) concerning health and safety at the workplace (Section 22(1)).

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