

# Thompson v T Lohan (Plant Hire) Ltd [1987]

Negligence in industrial facilities and liability for operational losses.

## Evidence

The company of the accused hired industrial facilities and machine operators for their business. The plaintiff hired two operators of the accused and some machinery for the needs of his business. One of the operators was killed while using the machinery due to the negligence on the part of the other operator. The family of the killed worker claimed compensation both from the accused and the plaintiff. The court held that the accused should pay the compensation to the family. The accused applied for compensation from the plaintiff according to the terms of their agreement. The terms stated that the operators were fully subject to the plaintiff who had hired them. Consequently, the plaintiff should be liable if any losses occur. The accused received compensation for the losses, and the plaintiff appealed. The plaintiff stated that part of the agreement was invalid under section 2(1) of the Unfair Contract Terms Act of 1977 because it was an exclusion clause.

## Problematics

It was important to define whether the clause of the contract was valid to determine who had to be held liable for the operator's negligence.

## Resolution

The court held that the clause was valid and that the accused should issue the compensation as he had. The Unfair Contract Terms Act of 1977 did not contradict the liability for negligence and was to protect victims.

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