

When is an employer liable for harm caused by its staff?

written by BDBF

April 6, 2016

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When is an employer liable for harm caused by its staff?

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In some circumstances an employer can be held accountable when its staff do something wrong. In two recent cases, the Supreme Court has given useful guidance on the kinds of circumstances in which that will be so.

The principle of vicarious liability – i.e. where the employer is indirectly to blame for the actions of those working for it – comprises two elements. Firstly, there has to be the right kind of relationship between the employer and the person who caused the harm. Secondly, the actions which caused the harm must have a sufficiently close connection to the employment.

In *Cox v Ministry of Justice*, the first question was under consideration. Should the Ministry of Justice be held liable for an injury caused by a prisoner (not employed by the MoJ) who had negligently dropped a 25kg bag of rice onto the back of the prison's catering manager? The Supreme Court held that it should. In its judgment, whilst the prisoner was not an employee, he was working to the benefit of the prison service. This was enough to establish the necessary relationship.

The second question was at the heart of *Mohamud v WM Morrison*. Mr Mohamud entered a Morrison petrol station kiosk and asked the attendant, Mr Khan, whether he could print some documents from a USB stick. Mr Khan refused, using foul and racist language as he did so. Mr Mohamud left the kiosk and entered his car, only for Mr Khan to pursue him and physically attack him. Whether Morrison was liable for the assault on Mr Mohamud depended on whether it could be regarded as closely connected with Mr Khan's job in the petrol station kiosk. The Supreme Court held that it was; Morrison employed Mr Khan to deal with customers and respond to their enquiries, and Mr Khan was responding to Mr Mohamud's enquiry when he became violent.

A feature of cases such as these is that, as something terrible has happened to someone, public policy dictates that someone should be held to account. This requires a broad view of which situations will satisfy the test, as these cases demonstrate.

Cox v Ministry of Justice [2016] UKSC 10 and *Mohamud v WM Morrison Supermarkets plc* [2016] UKSC 11

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