

STATE OF MICHIGAN
COURT OF APPEALS

MOHAMAD HABHAB and ELHAM HABHAB,

Plaintiffs-Appellants,

v

SHELBY PRECAST CONCRETE COMPANY and
OVERHEAD CRANE AND SERVICE, INC.,

Defendants-Appellees.

UNPUBLISHED
November 8, 1996

No. 177782
LC No. 93-005870-NO

Before: McDonald, P.J., and Bandstra and C. L. Bosman*, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's orders granting summary disposition in favor of defendants. We affirm.

Plaintiff Mohamad Habhab was injured in the course of his employment as a mechanic for defendant Shelby Precast Concrete Co. Plaintiff Elham Habhab is Mohamad's wife. While Mohamad was working on the exhaust system of one of defendant Shelby's trucks, the crane holding the truck in a raised position began to lower the truck onto Mohamad, smashing the little finger of his left hand. Plaintiffs sued defendant Overhead Crane, the manufacturer of the crane, for failure to warn or provide adequate instructions for its use. Plaintiffs also sued defendant Shelby as the manufacturer of the crane, based upon its role of assembling the crane. The trial court granted defendant Overhead Crane's motion for summary disposition on the basis that there was no genuine issue of fact that defendant Shelby was a sophisticated or professional user of the crane, so that defendant Overhead Crane owed no duty to warn with regard to the use of the crane. The trial court granted summary disposition to defendant Shelby based upon the exclusive remedy provision of the Workers' Disability Compensation Act, MCL 418.131(1); MSA 17.237(131)(1).

There was no question of material fact that defendant Shelby was a sophisticated or professional user of the crane system sold by defendant Overhead Crane. Defendant Overhead Crane sold the crane in an unassembled condition to defendant Shelby, whose employees assembled the crane

* Circuit judge, sitting on the Court of Appeals by assignment.

on site. The crane was used on a daily basis by defendant Shelby's employees, and was an integral part of defendant Shelby's operations. Since defendant Overhead Crane sold the crane to a sophisticated or professional user, it had no duty to warn or instruct with regard to the basic operation or use of the crane. *Brown v Drake-Willock Int'l*, 209 Mich App 136; 530 NW2d 510 (1995); *Ross v Jaybird Automation, Inc*, 172 Mich App 603; 432 NW2d 374 (1988).

Plaintiffs' claims against defendant Shelby are barred by MCL 418.131; MSA 17.237(131). The dual-capacity doctrine is inapplicable because Mohamad's use of the allegedly defective crane arose out of his employment relationship with defendant Shelby. *Isom v Limitorque Corp*, 193 Mich App 518; 484 NW2d 716 (1992).

Affirmed. Costs to defendants.

/s/ Gary R. McDonald
/s/ Richard A. Bandstra
/s/ Calvin L. Bosman