

IN THE COURT OF APPEAL (CIVIL DIVISION)

Gladys Arkwright v Grand Gas Turbines Ltd

Granville Hamilton was 17 years of age and was employed by Grand Gas Turbines Ltd as a maintenance operative. His foster mother, Gladys Arkwright, had encouraged him to apply for the job as she had previously worked for the company, before giving up her employment to become a full-time foster mother to Granville when he was placed with her at the age of 14.

On 25th September 2010, Granville was at work when an explosion took place. The factory foreman had fallen asleep on duty and had failed to carry out crucial safety checks. Dangerous levels of gas had built up and a spark from switching on a light caused the explosion. Granville was thrown several feet in the air and landed on a hard floor. He suffered extensive burns and a spinal injury. The incident occurred at 2.00 p.m. The Factory Manager, Rufus, had to telephone the families of several injured employees. By the time he rang Gladys, who was listed as next-of-kin, it was 3.30 p.m.

Gladys arrived at 4.00 p.m. and discovered several ambulances, fire engines and police cars were outside the factory. Rufus recognised her and took her to where Granville was waiting for the air ambulance to arrive. He was strapped in to a spinal board, covered by a foil blanket and had obvious burns to his face. He did not appear to be conscious. He was attached to an emergency drip. A paramedic informed Gladys that Granville had been sedated and they were waiting for the air-ambulance.

Shortly afterwards, the air ambulance landed close to where they were, as it came down the wind from the rota blades dislodged a metal sheet from the roof that had been damaged in the explosion and it landed close to where Gladys was standing. At this point, Gladys became hysterical and had to be taken away from the area by Rufus. Granville remained in hospital for 6 weeks and after skin grafts and some surgery he was discharged. Gladys suffered long-term insomnia and experienced frequent flashbacks of the scene she encountered at the factory. She was prescribed a lengthy course of medication to control her symptoms. She was subsequently diagnosed with Post Traumatic Stress Disorder and depression.

A claim for nervous shock was brought by Gladys against Grand Gas Turbines Ltd. Liability had been accepted for injuries to all of the employees who were caught in the blast.

At the trial it was an agreed fact that Gladys had suffered nervous shock and that Post Traumatic Stress Disorder and depression were recognised psychiatric conditions.

Wideview J, held that Grand Gas Turbines Ltd was liable to Gladys on the grounds that:

1. Gladys' apprehension of injury through witnessing the roof panel flying towards her was sufficient to place her in the zone of danger and be classed as a primary victim, for which it was not necessary to show reasonable foreseeability of illness within the definition of *Page v. Smith* [1996] 1 AC 155.
2. That even if taken as a secondary victim, Gladys had come across the immediate aftermath of the incident at the factory and was proximate in time and place. Furthermore Gladys had been acting *in loco parentis* as Granville's foster mother and thus there was a presumption of a close tie of love and affection.

Grand Gas Turbines Ltd appeal on the following grounds:

1. The force exerted by the rota blades to dislodge the roof panel was a *novus actus interveniens* thus breaking the chain of causation between the defendant's actions and the claimant's loss and this prevented her from claiming to be a primary victim - *Alcock v. Chief Constable of South Yorkshire* [1992] 1 AC 310 should apply.
2. Due to the two hour time delay between the time of the explosion and Gladys seeing Granville in the factory, who was sedated on a stretcher, it cannot be said that she had witnessed the immediate aftermath of the incident and that at any rate, the concept of acting *in loco parentis* did not extend beyond legal rights and responsibilities such that there was no automatic presumption of a close tie of love and affection with the injured person in such circumstances.