

The National Industrial Court Delivers Landmark Decision on Workplace Negligence and Employers Duty of Care



Introduction

On July 1, 2025, the National Industrial Court held that a master must ensure that he provides a safe system of work for the servant, and an employer will not have discharged his duty to provide a system of work unless he gives his workers proper instructions and reasonable supervision. The judgement was handed down by Justice M.A. Hamza in NICN/PHC/43/2024- Abbey Iyobu Robert V Port Harcourt Electricity Distribution Company (PHED).



Background

The Claimant had worked for PHED for a period of two years. On October 25, 2023, while on duty, the Claimant suffered severe electrocution and burns due to the negligent act of the Defendant's Regional Manager.

In its defence, PHED denied liability and contented that it fulfilled its duty of care towards the Claimant and that the Claimant was solely responsible for the accident and the resulting injuries. PHED stated further that the Claimant received adequate training which included safety protocols and the proper use of safety equipment.



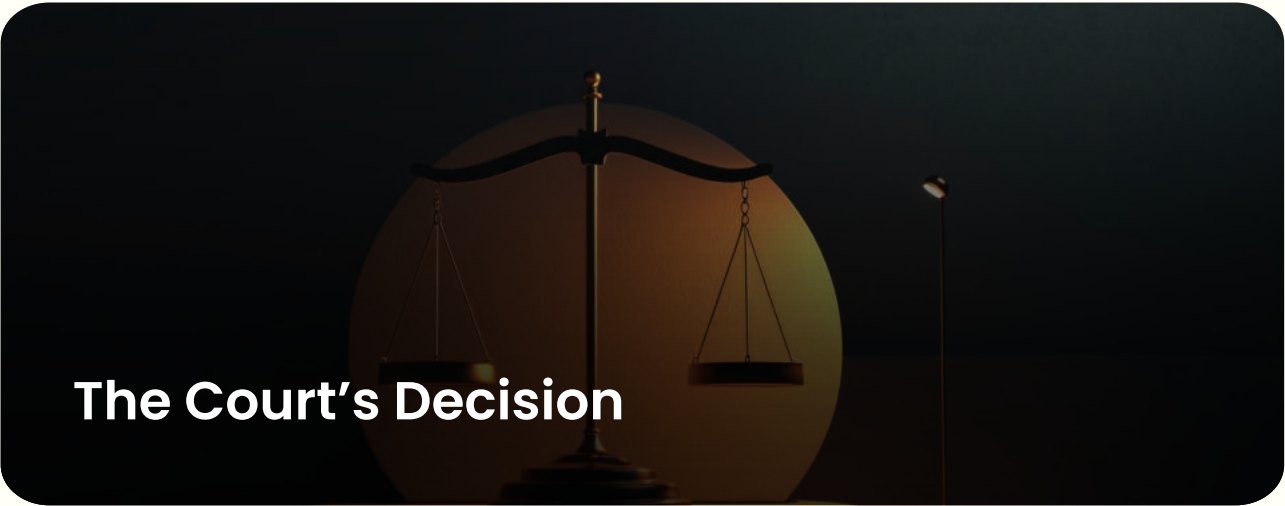
The Key Question Before the Court

The question before the Court was whether PHED owed the Claimant a duty of care and whether the accident resulted from the Claimant's own negligence or from PHED's breach of its duty of care?

KEY POINTS EXPRESSED BY THE COURT

First, the Court noted that it was the duty of an employer, acting personally or through his servants or agent to take reasonable care for the safety of his workmen, and other employees in the course of their employment. This duty extends in particular to safety at place of work, at the plant and machinery including the method and conduct of work; but it is not restricted to these matters alone.

Second, the Court emphasized that where a service relationship exists between employer and employee, the former is under a duty to take reasonable care for the actions and safety of the latter in all the circumstances of the case, so as not to cause harm to others or to expose him (employee) to unnecessary risk. This duty is equivalent to the employer's Common Law duty of care in the law of negligence. The Court pointed out that generally at common law, the master must ensure that he provides a safe system of work for the servant. An employer will not have discharged his duty to provide a system of work unless he gives his workers proper instructions and reasonable supervision.



The Court's Decision

The Court in applying the provisions of Article 10 (c) of Occupational Safety and Health Recommendation, 1981 (No.164) made pursuant to ILO Occupational Safety and Health Convention, 1981, held that an employer has the burden to ensure that she/he did not only provide but that the worker uses the safety gadgets/protocol she/he provided in order to eschew accidents.

The Court held that the employer has a duty not only to prove that it supplied the necessary equipment to the worker but also that, it gave adequate training on its use, safety protocols are observed with its limitations and, also ensured that it was actually used with all the safety protocol being followed by the worker. In a nutshell, the burden of proof is inverted on the Defendant. The Court considers this International best Practice acceptable to the civilized world of labour relations of which Nigeria is in comity by virtue of S. 254C-(1) (f)-(h) & (2) of the Constitution and 13 & 15 of the National Industrial Court Act

The Court held that it was insufficient for PHED to merely argue that the Claimant was well-trained, aware of the safety protocols, or that the accident resulted from the Claimant's own failure to comply with those protocols. The Court emphasized that the Defendant was required to assess the risks associated with the nature of the work, including the likelihood of injury or death and the adequacy of precautions necessary to mitigate those risks. It was therefore not a defence for the Defendant to rely on the Claimant's non-compliance with safety measures. Rather, the Defendant, acting through its alter ego (Regional Manager), had a duty to ensure strict adherence to safety protocols. The failure to discharge this duty amounted to negligence, for which the Defendant was held liable.

Lastly, the Court held that PHED's duty of care extended beyond training or creating awareness of safety measures. It was also responsible for ensuring that the Claimant and his Team adhered to mandatory safety procedures, including the safe belting process. The Court declared that PHED owed the Claimant duty of care, which it breached, resulting in the Claimant's accident in the course of duty, causing him serious injury.



This judgement reinforces that employers bear the primary responsibility of ensuring that safety protocols and protective equipment are not only provided but also effectively enforced in the workplace to prevent avoidable accidents. The Court's reliance on ILO standards is a clear move towards aligning with international best practices. Employers should therefore develop and implement health and safety policies and procedures that are in tandem with the provisions of the Occupational Safety and Health Convention, 1981 (C155).

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