

What's the Right Fine for OHS Violation Causing Rollover Death?



A worker was crushed to death when the heavy mobile equipment he was operating without wearing a seatbelt rolled over on top of him. The employer, a freight services contract firm, pleaded guilty of failing to ensure that the victim was adequately supervised. The only question, then, was the size of the fine. The court agreed with the prosecutor and victim's family that \$100K was an appropriate amount in light of the following factors:

| Aggravating Factors | Mitigating Factors | Neutral Factors |
|---|--|--|
| <ul style="list-style-type: none">*The rollover risk wasn't just foreseeable but obvious especially for a firm that made its living on mobile equipment operation*The operator wasn't instructed on the rollover hazards*The offence led directly to a worker's death | <ul style="list-style-type: none">*It was the firm's first offence*The offence wasn't a deliberate decision to cut safety corners and save money*The victim's negligent failure to wear a seatbelt was a contributing factor*The firm fully cooperated with the investigation*The firm also spent \$37K+ after the accident to fly in the victim's family and erect a memorial in his honour | <ul style="list-style-type: none">*100K was in line with previous cases involving rollover fatalities*The firm's annual revenues were between \$1 million and \$2.5 million*\$100K was big enough to sting and serve as a deterrent but not big enough to drive the firm out of business |

[*Her Majesty the Queen and Allen Services & Contracting Ltd.*, 2018 NWTTC 3 (CanLII), Feb. 20, 2018].