

ASLEF Personal Injury Legal Services

NORTH WEST REGION

Autumn/Winter 2013



Legal Helpline 0808 100 8009

Train driver in tree collision

ASLEF LAWYERS Thompsons Solicitors have secured £3,000 for a member who was injured when a train he was driving collided with a tree on the track.

John Metcalf was driving the train between Newcastle and Carlisle. On approaching the crossing at Boathouse, he saw a man at the side of the line flagging him to slow down but he couldn't see a problem ahead because of the curvature of the line. John used the emergency brake to slow the train down.

As the train slowed and approached the crossing, the ASLEF member saw a large tree lying across both tracks. John rushed from the driver cab into the passenger coach behind because the train could not stop in time. Within seconds, the train collided with the tree and smashed through the driver's windscreen.

Investigations showed that tree felling had been authorised to take place near to the side of the line when trains were running but that drivers had not been warned that the work was being carried out. John received compensation based on the shock and psychological injuries he sustained from the accident.

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Improper personal protection

A TRAIN driver who provided first aid at the scene of an attempted suicide has secured nearly £4,000 in compensation from his employer for its failure to provide personal protective equipment.

The ASLEF member found out after treating the casualty that the trespasser was HIV-positive and realised that he had an open wound on his thumb at the time he was giving assistance. He underwent tests and was advised to take anti-viral medication, which had painful side effects.

While his blood tests were negative, Thompsons helped ASLEF bring a case against his employer for the inadequate supply of protective equipment that put his health at risk.

Hazardous manhole was unsafe for working environment

AN ASLEF member has received compensation after his employer failed to maintain a safe working environment at a train depot where he worked.

Leslie Sidebottom had driven a traction unit to an Alstom depot in Manchester in the evening. It was dark and, as he got off the unit and walked towards the designated walkway, his left foot fell into a hole – believed to be an uncovered or corroded drain.

The ASLEF member suffered two broken bones in his foot as a result of the fall, which required hospital treatment. He had to take five months off work to recover.

ASLEF referred Leslie to Thompsons Solicitors who successfully brought a claim against his employers, Alstom, for failing to ensure a safe place of work. Leslie was awarded £7,500 in compensation for his injuries.

DON'T FORGET

Whether it's you or
a member of your family
who has suffered, ASLEF
is here to help.



THOMPSONS
SOLICITORS

STANDING UP FOR YOU

'Strict liability' used to secure compensation

AN ASLEF member received over £3,700 in compensation for an injury caused when the handrail came away from a cab door as she attempted to climb into a train.

This equipment failure caused the railway worker to fall around eight feet to the ground. Her injuries from the fall took two months to heal and she was unable to work during this time.

Thompsons Solicitors argued that the employers were in breach of the Provision and Use of Work Equipment Regulations for failing to properly maintain the train.

Under these regulations, an

employer has strict liability for equipment defects even if they could not have been aware of the defect.

Changes implemented by the government in the Enterprise & Regulatory Reform Act, which came into force on 1 October 2013, remove the ability of people to claim against their employer for breach of statutory duty.

ASLEF membership has never been more important following these changes to legal services.

If this accident had occurred after 1 October this year, it would have been more difficult to pursue the employer as liable for the defect.

Slippery walkway causes injury

An ASLEF member suffered a torn hamstring when he slipped while walking towards a signal to speak to the signaller. The walkway was wooden and the surface was covered with a slippery mildew-like film. After the accident, the walkway was re-surfaced with an anti-slip covering.

After being referred by ASLEF to Thompsons, a claim was brought under the Workplace Regulations under which an employer has a duty to ensure that walkways are free from any substance that may cause a person to slip and fall.

The member was unable to work for nearly two months and received over £3,500 in compensation. This is another example of a claim that will have much less chance of succeeding after 1 October when government changes to "strict liability" will mean that breach of statutory duty is no longer sufficient to establish liability of employers.

Ignored warnings about lighting led to accident

A MEMBER who complained about poor lighting subsequently hurt his wrist and knee when he tripped on discarded rails at night.

He had told bosses that the poor lighting at the depot was an accident waiting to happen. The employee was a health and safety representative but his repeated concerns were ignored. Just a few weeks later he tripped on some discarded rails.

Investigations showed that, although there were light towers in the yard, only one set was working. Also, the rails shouldn't have been left where they were a potential hazard.

The railway worker of almost 30 years suffered a soft tissue injury to his left wrist and a sprained knee. He had to take time off work.

After the accident he contacted ASLEF because he wanted to see the

health and safety hazard addressed.

Thompsons Solicitors investigated a claim for compensation and the employer admitted liability and settled the claim out of court for £4,900.

The member said: "As health and safety representative I took my job seriously. I could see that the lack of lighting was a hazard but my concerns were just ignored. It's ironic that, in the end, I was the one who ended up injured but I feel strongly that it should never have got to the point that I had to take legal action to see things improved."

Mick Whelan, ASLEF general secretary, added: "It is extremely disappointing that this employer appointed a health and safety representative but then failed to listen to his advice. Good quality lighting is an obvious priority in a workplace."

**Over £30,000
recovered in
personal injury
compensation for
ASLEF members
in the North West
region in the last
six months**

About Thompsons

Thompsons Solicitors is the largest national specialist personal injury practice in the country with over 800 staff in a network of offices nationwide.

We secure over £150m compensation each year for people who have been injured and suffered loss as a result of accidents caused by the carelessness of others.

Thompsons only works for injured people, never for insurance companies or employers.

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