



HIGH COURT OF AUSTRALIA

Public Information Officer

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ROBYN VANESSA LAYBUTT v GLOVER GIBBS PTY LIMITED trading as BALFOURS
NSW PTY LIMITED

An employer was held to have negligently caused a worker's injury after rejecting her request for instructions on how to reassemble a doughnut machine, the High Court of Australia held today.

Ms Laybutt was a 30-year-old pastry cook who had been employed by Glover Gibbs for about six weeks in its Sydney factory when her team leader asked her to reassemble the machine after washing. She told him that she did not know how to do it and he responded "just give it a go". Ms Laybutt was not given supervision, gloves, an instruction manual or a practical demonstration. Part of the machine consisted of five cylinders into which smaller cylinders were fitted. These were held together by a U-shaped piece with protruding lugs which had to slot into grooves on the outer cylinder. The larger outer cylinder had sharp edges and the cylinders were slippery after being washed. As Ms Laybutt attempted to join a pair of cylinders the outer one slipped and sliced her right little finger. This injury also affected her arm. On later occasions she was able to reassemble the machine without mishap.

Ms Laybutt sued her employer in negligence in the New South Wales District Court. She alleged Glover Gibbs was negligent in failing to implement a safe system of work, to provide adequate instructions and training, to supervise her properly, to dry the parts to be reassembled, to heed her warnings that she was unskilled in the task, to provide manufacturer's instructions for the safe cleaning and assembly, and to provide protective gloves. Glover Gibbs pleaded contributory negligence by Ms Laybutt as she failed to carry out her duties as instructed, to carry out her duties safely, to have proper regard for her own safety, and to wear gloves as instructed. However at the hearing her account was substantially unchallenged and the defence was her ineptness in not holding the cylinder tightly enough. Glover Gibbs's production manager criticised the direction to "just give it a go". The jury found Glover Gibbs liable and rejected the claim of contributory negligence. Ms Laybutt was awarded damages of \$471,000 plus costs. Glover Gibbs successfully appealed to the Court of Appeal which held that Ms Laybutt had not spelled out what instructions should have been given. She appealed to the High Court.

The Court unanimously allowed the appeal and held there was sufficient evidence to go to the jury of a failure to give appropriate instructions. It was not necessary in this case to formulate a precise set of instructions that Glover Gibbs should have given when she sought them. The Court held that jurors use their knowledge and experience to contemplate what might reasonably be expected in a workplace and it was open to them to find Glover Gibbs negligent in failing to give instructions or warnings.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*