



SCENARIO

Mr Crabtree was a 38 year old man. He was married with three children; Daniel, Rupert and Daisy. Mr Crabtree's wife, Anna, has severe rheumatoid arthritis in her left elbow. Daniel is 10 years old and is an avid football fan; Mr Crabtree would often take Daniel to away games around the country. Rupert is 8 years old and was born deaf. Daisy is 18 months old. Mrs Crabtree quit her job as a primary school teacher to look after the children and therefore Mr Crabtree is the sole earner.

Mr Crabtree left school at 16 years old and his friends would describe him as 'hard working' and a 'grafter'. Mr Crabtree has 9 O-Levels and was keen to begin an apprenticeship scheme as soon as he left school.

In 1991, Mr Crabtree became an employee of 'Fix It (Cables) Limited' ("Fix It"), a medium sized company who offer specialist services in repairing and replacing telephone cables and internet wires. When Mr Crabtree joined Fix It, he was an apprentice electrician. His role began with training in order for him to earn his City and Guilds qualification. As Mr Crabtree progressed he became an operator of the mobile elevating work platform also known as a cherry picker. Mr Crabtree received training on this machine in 1992 and then attended a refresher course in 2004.

The training that Mr Crabtree received in 1992 had been given by Mr Herbert. Mr Herbert joined Fix It as a cleaner when it was a start up company. Mr Herbert then progressed to become a general handy man and assisted the Health and Safety Director with providing training sessions to staff.

The refresher course was given to Mr Crabtree in January 2004 by the new Health and Safety Director, Miss Rhodes, who had been employed by Fix It in December 2003. Mr Crabtree attended the refresher training with 5 other colleagues who were all at different stages of their careers. Mr Peters was one of the 5 employees who attended the refresher course. Mr Peters was an apprentice electrician at the time and had previously never received training. The refresher course lasted for 23 minutes.

Mr Crabtree had been an employee of Fix It for 22 years. His role was as an electrician and operator of the cherry picker. The cherry picker was used to access the cables that Fix It had been contracted to repair.

Fix It started off as a relatively small company with around 40 employees. At present, Fix It has 269 employees, 85 of these employees are electricians. Mr Barry was Mr Crabtree's best friend and colleague. He was an apprentice at the same time as Mr Crabtree.

In April 2013, Fix It purchased 8 new cherry pickers to replace some of the older models. The cherry pickers were purchased from Machines 4 U Limited ("Machines 4 U"). Machines 4 U, as the supplying company, have a policy which requires their Health and Safety Director, Mr Patel, to have a meeting with the relevant person within the purchasing company and provide them with a 'How to Use Guide'. Mr Patel would also be required to highlight the key areas of risk when using this machine. Mr Patel was away on annual leave the day that the cherry pickers were collected by the Fix It collection team.

The Health and Safety Director, Miss Rhodes, had finished on early maternity leave and her replacement was not due to start until the end of May. There was no Health and Safety Director employed by Fix It when the cherry pickers were purchased, collected or implemented.

On 5 May 2013, Mr Crabtree was at work repairing a frayed television cable at a residential home. The customer was Mrs Potter, Mr Crabtree's aunt, and she was at home when Mr Crabtree arrived to repair the cable.

Mr Crabtree was operating one of the new machines for the first time. The cherry picker was elevated approximately 8.5 metres in the air. Mrs Potter had just come outside to bring Mr Crabtree some lemonade. Suddenly, Mr Crabtree lost his footing and fell from the cherry picker. Mr Crabtree suffered multiple injuries in the fall, including a fractured skull, from which he died 2 days later.

Mrs Potter has been to see her GP on numerous occasions since the accident and she has been diagnosed with Post Traumatic Stress Disorder. Her husband, Mr Potter, is tetraplegic and he is cared for full time by Mrs Potter. Since Mr Crabtree's accident, Mrs Potter has been unable to care for Mr Potter and so they have had to hire a full time carer.

Mrs Crabtree has seen several news articles which suggest that the responsibility of training and health and safety at work is with the employer. She now wishes to pursue an action against Fix It. Fix it do not have any records to show that Mr Crabtree was given any training since 2004. Fix It's Health and Safety Director, Miss Rhodes, has stated that training was not deemed necessary for an operator as competent as Mr Crabtree and that this was simply a tragic accident.

As Mrs Crabtree does not work, she is concerned that Mr Crabtree's death in service benefit and his life insurance will not be sufficient enough to enable her to care for her children until they are all 18. Mrs Crabtree is especially concerned for Rupert as the NHS only contribute a small percentage of the aids and devices he needs for his hearing.