

‘Not Guilty’ Plea in Fatal Road Accident Case

Waterford City and County Council pleaded not guilty in the Circuit Criminal Court in Waterford to four breaches of the health and safety at work regulations arising out of a fatal road accident in which a council worker was killed instantly when struck by a council truck while filling pot holes.

Father of five John Vincent Delaney of Chapel Street, Tallow, County Waterford, suffered fatal head injuries when knocked down by the reversing truck at Mountainfair Road, Tallow, on July 12th 2011.

The Council is charged on four counts of failing to ensure a system of work that was planned and organised without risk to employees; failing to provide a safe place of work and failing to adequately instruct and supervise the workers.

Noel Whelan, BL, for the DPP, said a four man crew from the Council Depot in Tallow went out on the truck to fill pot holes.

Two of the men, John Vincent Delaney and Michael Delaney were brothers. The truck was used for the purpose of compact tarmac in the potholes by driving over them. During the course of that work the victim was injured by the reversing vehicle.

There was a legal obligation on employers to put in place a system of work that ensured the safety of employees and anybody else in the area.

The HSA carried out an investigation and it was the prosecution case that the Council did not comply with its health and safety obligations as a result the worker was killed.

The way the pot hole patching work was carried out and the use of the truck for compacting tarmac in pot holes was unsafe without a “vehicle controller” directing the vehicle.

The Council failed to ensure that employees were adequately supervised on the ground and there was no appropriate supervision.

Former Acting General Services Supervisor Patrick Joseph Power said he sent out the four man crew and directed that signage be erected on the road and that stop and go lollipop signs should be used during pot hole filling. Radios were not used as the men could see each other over the short distance involved.

Later in the afternoon he was informed of the fatality and he closed the road and reported the incident to HQ in Dungarvan.

For 30 years it was the normal practice in Waterford County Council to compact tarmac in pot holes with the wheels of a truck.

The brother of the victim, Michel Delaney said he erected two ‘Men at Work’ signs and it was first decided to fill in two bad pot holes near a junction and they all kept a look out for oncoming traffic.

They then moved 70 metres down the road to deal with a “nest” of pot holes. When the tarmac was filled-in the truck missed one of the holes at the first attempt and the driver had to go back to repeat the operation.

He said he was about to fill out a Safety at Work Practice document when he heard a “thud” and realised there had been an impact with his brother Vincent. Nobody in the team was appointed to direct the driver of the truck when reversing over the pot holes.

A general operative, John Curley said both he and Vincent filled-in the pot holes with tarmac. He walked on and thought that Vincent was following him. When he looked back he saw Vincent lying on the ground with serious head injuries.

The trial continues.