

**Court of Appeal – Anna Micallef pro et noe v. Allchem Limited – 18/9/2009. Employer’s responsibility for death of an employee – Duty of the employer to warn and instruct employees against dangers:**

The case related to a claim for damages in tort following the death of an employee at the workplace. The deceased, a *de facto* supervisor, mounted the arms of the fork-lifter to effect repairs to a ceiling. One of the employees started playing around with the levers of the fork-lifter, the supervisor fell off and died. The evidence showed that for a long time prior to the accident the employees who worked with the deceased would engage in similar conduct.

The Court held that the company had failed to take appropriate action to prohibit this behaviour, and to provide adequate training to the employees as to the purpose of the fork-lifter and the dangers inherent in its improper use. Although the employees were warned against the improper use of the fork-lifter, they were not properly instructed as to the serious dangers if the fork-lifter was improperly used.

The employer must warn the employee of the dangers and the consequences, so that the employee can appreciate the seriousness of the warning. The court confirmed that part of the judgment of the first Court which had ordered the employing company to pay one-half of the liquidated damages.