



# Media Release - SafeWork SA

---

Friday 26 November 2010

## FINES OVER DEATH OF DECKHAND AT SEA

**An Adelaide-based fishing company and the skipper of its vessel have been fined a total of \$87,500 by the Industrial Court today over the death of an employee at sea.**

These penalties predate the higher scale which applied to workplace breaches which occurred after 1 January 2008.

**Jean Bryant Fisheries Pty Ltd** and freelance skipper, **Arthur Markellos** had earlier been found guilty at trial of breaching sections of the *Occupational Health, Safety and Welfare Act 1986* relating to failures to provide safe systems of work, plant in a safe condition, and ensuring the deckhand was safe from injury.

SafeWork SA prosecuted both parties after investigating the death of 36 year old Giacomo (Jack) Salvemini in an incident at sea aboard the shark-fishing vessel, "Jean Bryant" on 1 November 2005. Mr. Salvemini was fatally injured while assisting in the retrieval of fishing nets onto a large spool fixed to the foredeck of the vessel. He was caught in the meshing and suffered massive crush injuries when drawn onto the spool.

Today Industrial Magistrate Richard Hardy acknowledged this had had *"a devastating effect on his family."*

In his trial decision earlier, Magistrate Hardy described the winch spool as:

*"...inherently a very dangerous installation, made more so by environmental factors. It was also controlled by a distant operator who did not have a complete view of the area of danger or the functions of his deckhand."*

SafeWork SA told the court of a series of safety shortcomings aboard the boat, including:

- a failure to conduct an adequate hazard identification and risk assessment
- a failure to provide adequate safe operating procedures for the deckhand
- a failure to fit the spool with an emergency stop device or adequate braking mechanism
- a failure to instruct Mr. Salvemini to stand clear of the spool and to ensure he did
- a failure to keep him in sight, and to stop the spool if he was not in view
- a failure to adequately supervise.

Today in his penalty decision, Magistrate Hardy elaborated on the factors involved:

*"The precise circumstances were not anticipated and the incident was the result of several factors combining at once... I accept there was nothing intentional and no wilful risk on the part of the defendant..."*

[more]



*“However the point is that (Jean Bryant) ought to have introduced physical means of protecting the winch, particularly as the administrative methods used were deficient and poorly applied.”*

Magistrate Hardy imposed convictions on both defendants and fined Jean Bryant Fisheries Pty Ltd \$70,000 out of the maximum penalty of \$100,000 applicable at the time of the incident.

After taking into account the second defendant’s diminished financial position, the magistrate fined Mr. Markellos \$17,500 out of the maximum \$100,000 applicable, saying Mr. Markellos was placed in an *“unenviable position”* by the shortcomings of the fishing company.

SafeWork SA says the case highlights the dangerous nature of the fishing industry, and the need to have rigorous safety systems in place, and for them to be followed meticulously.

National statistics show that the injury rate for professional fishing remains well above the average, and SafeWork SA is working with fishing industry associations to better manage their safety.