

Maine loggers' deaths raise seasonal workers' safety issues

Insurance Times: October 1, 2002, Vol. XXI No. 20

PORTLAND (AP) — The survivors of the 14 migrant workers killed in a van accident in a remote part of northern Maine could receive insurance payments of as much as \$150,000.

An official with Liberty Mutual Group said that the insurer is moving quickly to process claims, and is prepared to make provisional payments of several thousand dollars to each of the men's families in Guatemala and Honduras.

"We're expediting this so that these families can receive some assistance as soon as possible," said John Cusolito, vice president of external relations at Liberty Mutual.

"We've accepted the claims and we will be paying the lost time benefits that these families are rightfully entitled to under Maine law."

The men died when their van skidded off a one-lane bridge and into the Allagash Wilderness Waterway. Only one of the workers, Edilberto Morales-Luis, survived. The seasonal workers were on their way to trim trees and clear brush on land owned by Seven Island Land Co. in northern Piscataquis County. The men were hired by Evergreen Forestry Services, a Sandpoint, Idaho, firm.

By law, Liberty Mutual had 14 days from the day the first claims were filed by Evergreen Forestry Services, to pay or deny the benefits.

Initially, the Massachusetts-based insurer had indicated only that it would cover the cost of returning the bodies to Central America and burying them.

Cusolito said that the company had agreed to pay full death benefits, an amount equal to 80 percent of the worker's after-tax average weekly wage, for a period of up to 500 weeks. For an employee earning between \$8 and \$10 an hour for a 40-hour week, depending on the number of dependents, the benefit could total \$150,000 or more.

In forestry, the prevailing hourly pay rates are \$10.13 for brush cutting or pre-commercial thinning and \$8.27 for tree planting.

"This is the time for an insurance carrier to step up and honor its obligations," said John Leonard, president of Maine Employers' Mutual Insurance Co., the largest provider of workers' compensation insurance in Maine. "This is a pretty straightforward case. No one is contesting that these guys were on the job."

As the investigation continued into the accident, a lawyer compared the accident with one in 1998 in which two men died.

Parallels between the two accidents suggest there is something inherently wrong and risky with the way foreign forestry workers are transported to and from their jobs, said Evan Smith, a Portland lawyer who was involved in litigation following the 1998 case.

"When was the last time you heard about a van full of Portland lawyers dumping into the (river)?" Smith asked.

The fully loaded 15-passenger van plunged off a one-lane bridge into 15 feet of water in the Allagash Wilderness Waterway. Only one man survived.

On June 26, 1998, a tire on a van blew out and the vehicle rolled over on a remote logging road 45 miles west of Portage in Aroostook County. Of the 15 Mexican tree trimmers aboard at the time, two men died and 10 were injured.

Smith, who represented the estate of Lorenzo Soriano Cortes, one of the two victims in the 1998 accident, said the potential for legal liability in the more recent accident could be influenced by findings from a 1999 civil suit following the earlier tragedy.

Investigations by state and federal officials found that the 1996 van and its tires were in good shape at the time of the 1998 accident. The driver, they concluded, wasn't at fault. Cortes' estate challenged those findings in U.S. District Court in Bangor. The case was dismissed after a federal judge found that claims of negligence and wrongful death were barred by provisions of the state's Workers' Compensation Act.

In a summary judgment, the judge said travel in the van was a risk inherent in performing the forest thinning operations in remote forest locations.

An issue that may arise in the latest case is the exact relationships between the deceased workers and their employers, how the van was used and where the men were living at the time, said Smith.

Speed will also be a relevant issue, he said. Investigators believe the van was probably traveling 60 to 70 mph just before it entered a narrow bridge from which the van plunged.

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