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Business



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Boatright College: Boatright The defense of assumption of risk is commonly referred to as *volenti non fit injuria*. This doctrine asserts that if the claimant voluntarily and willingly accepts to take the risk of injury or damage, the doctrine constitutes a complete defense against the claim, and the plaintiff can make no apportionment (Merkin and Stuart-Smith, 2004). In the case of an individual who does not have a job, and is in dire need because of the need to provide for themselves and their family, he accepts the dangerous work conditions when he takes up the new position. The individual is already aware of the impending danger and comprehends the dangers, as well as accepts their nature (Heafey & Kennedy, 1994). Therefore, since the individual assumes the risks involved, he can be said to be contributorily negligent (Edwards, Edwards, and Wells, 2008).

Individual autonomy incorporates moral and political values that dictate how individuals govern themselves, irrespective of their role in social structure, as well as political alienations. In addition, an individual's moral principles and responsibilities, and the legality of political weight are critical in self-governing the individual (Christman, 2011). Kant investigates the ideas and concepts surrounding morality and elucidates commonsense ideas that are crucial in coming up with our moral judgments. In the case under study, the individual may have been under intense pressure to find a job because of the need to fend his family and himself. However, he was well aware of the risky conditions that were combined with the job he accepted.

Based on the doctrine of *volenti*, the individual cannot be able to bring a claim to his employer because of his assumptions on the risks involved (Miller & Jentz, 2009). The plaintiff already accepted to take the risks involved in exchange for the job. Lundmark (1998) asserts that assumption
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of the risk is a volitional act, and it cannot be present if the claimant has no knowledge or awareness of the impending dangers associated with the job at hand. This doctrine provides a complete defense for the defendant since the individual can be held to have voluntarily accepted the risks involved with the job. However, in case the defendant is found to have committed any form of negligence, damages sustained by the plaintiff can be viewed to be inconsistent.

Kant draws his views from moral philosophy and provides general judgments that are deemed to be deeply held. In addition, Kant argues that the moral judgments should be widely accepted and acceptable to any adult person that is normal and sane. Society expects a man to be in a position to effectively provide and sustain his family. The individual in the case acted rationally out of the need to ensure his family was comfortable. The individual was not driven by the desperate financial situation that plagued his family, but more by the need to provide for his family. Kant tries to answer the question, " what ought I to do?" as established by Robert (2010). The individual through his moral considerations deemed it best for him to take up the job regardless of the compelling risks that surrounded it. Therefore, it was an own decision. Ethics according to Kant requires us to understand our responsibilities, obligations, and good will in order to form a basis of our moral concepts.

In conclusion, the individual was not coerced to accept the risky conditions of the work, but it was pout of his own volition. This decision is supported by the assumption of risk and Kantian ethics. Kant proposes that individuals should act according to their moral obligations based on moral concepts that are acceptable.

References

- Christman, J. (2011). Autonomy in moral and political philosophy. The Stanford Encyclopedia of Philosophy (Spring 2011 Edition). Zalta, E. N. (ed.). Retrieved December 6, 2011, from <http://plato.stanford.edu/archives/spr2011/entries/autonomy-moral/>
- Contributory Negligence, assumption of risk and duties of protection. Retrieved December 6, 2011, from <http://revofneg.treasury.gov.au/content/Report2/PDF/ContribNeg.pdf>
- Edwards, J. S., Edwards, L. L., & Wells, P. K. (2008). Tort law for legal assistants. 4th ed. Stamford, Connecticut: Cengage Learning.
- Heafey, R. J., & Kennedy, D. M. (1994). Product liability: Winning strategies and techniques. Law Journal Press.
- Lundmark, T. (1998). Common law tort & contract. Berlin: LIT Verlag Munster.
- Merkin, R. M., & Stuart-Smith, J. (2004). The law of motor insurance. London, UK: Sweet & Maxwell.
- Miller, R. L., & Jentz, G. A. (2009) Fundamentals of business law: Excerpted cases. 2nd ed. Stamford, Connecticut: Cengage Learning.
- Robert, J. (2010). Kant's moral philosophy. The Stanford Encyclopedia of Philosophy (Summer 2010 Edition). Zalta, E. N. (ed.). Retrieved December 6, 2011, from <http://plato.stanford.edu/archives/sum2010/entries/kant-moral/>