

Senate Bill 409 – Helping Families Facing Tragedies

Hugo Avalos-Chanon worked for a cleaning company in the Portland metro area. On April 26, 2013 his company sent him to a meat processing plant in Clackamas County to clean out its industrial meat grinder.

The meat processor had been cited in October 2012 by BOLI for failing to properly lock down the meat grinder during cleaning, and inspectors said, “an unexpected start-up of the machine” could cause injuries.

Just six months later, that is exactly what happened. According to the Oregonian, fellow workers tell a chilling account of Mr. Avalos-Chanon’s blood curdling screams as he is slowly, painfully pulled into the industrial meat grinder legs first and chopped alive. The death was so grotesque that firefighters were called in the day next day to help dismantle the machinery to extricate what was left of his body. The state medical examiner determined the cause of death was blunt force trauma and chopping wounds.

Mr. Avalos-Chanon was just 41 years old and the provider for his wife and children. His family has filed suit against the meat processing plant for \$5M in non-economic damages for the company’s failure to follow standard safety procedures to ensure that the machine was properly shut off and couldn’t start up until the maintenance work was completed. A jury will hear the case and will render a verdict. **The jury can award the full \$5M, but the judge will then be required, as a matter of law, to reduce that verdict to \$500,000 because of this arbitrary cap.** The jury will not be told until after they bring back the verdict that the cap exists, no matter how egregious the death or extreme the negligence may be of the company.

If the two sides were to negotiate before the litigation, the butcher has little incentive to offer the full \$500,000 since the company knows that the \$500,000 cap is the worst case scenario.

SB 409 would remove that arbitrary cap on the value of a human life. The cap was set by the Oregon Legislature in 1987, and has not been increased in the intervening years. Even if the cap was simply adjusted for inflation, it would be \$1,039,397 in 2014 dollars.

SB 409 would allow Oregon juries to hear the facts and determine case-by-case justice for grieving families. In the past 15 years, Oregon voters have twice rejected ballot measures that would put one-size-fits-all caps on justice.

The elderly and stay-at-home parents are disproportionately impacted by death caps. In death cases, economic damages can be recovered for loss of future earnings. But older Oregonians who are retired and killed through negligence have less economic loss because they are no longer earning a paycheck. Similarly, families with stay-at-home parents or women who suffer from pay inequity have limited economic loss. This cap devalues their lives and is one more devastating blow to already shocked and mourning families.

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