

\$823,342 Verdict for Construction Worker Injured by Dumpster

The jury's verdict was over 50 times more than the amount offered prior to trial.

On February 3, 2004, 38-year-old Purnell Bhalai, a temporary construction laborer employed by Dixie Staffing Services, was assigned to an office building rehabilitation construction project in Coral Gables, Florida. One of the duties assigned him was to assist in the delivery of a construction dumpster to be used in removing debris from the building. Mr. Bhalai had years of experience on construction sites and had frequently been asked to assist drivers in directing the placement of construction dumpsters at construction sites and in disengaging the cable guides which allowed the dumpsters to be placed in the proper position.

Juan Amigo, a driver employed by Lopefra Corporation of Miami, Florida, arrived at the site with the dumpster. The dumpster was solid steel, and over 30 feet in length. The driver, Mr. Amigo, had to navigate through a narrow alley to place the dumpster near the building's loading dock. Mr. Bhalai began directing the driver through the passage for placement of the dumpster. According to Mr. Bhalai and another witness, Mr. Amigo's truck was not equipped with an audible back-up warning device.

When the dumpster had been maneuvered into the proper position, Mr. Bhalai reached between the truck and the dumpster to disconnect the guide cable. Driver Amigo failed to realize that Mr. Bhalai was behind his truck and, without any warning, he reversed the truck crushing Mr. Bhalai's right arm between the steel dumpster and the truck. Mr. Bhalai's screams alerted everyone that something terrible had happened.

Hearing the cry for help, fellow employees at the site came to Mr. Bhalai's assistance. It was obvious that their coworker had suffered a severe injury to his right arm. He was immediately taken to Parkway Regional Medical Center in Miami, Florida, where it was determined that he had suffered a compartment syndrome injury to his right arm. This very painful condition results from an expansion of enclosed tissue, producing pressure which can interfere with circulation, and which can be life-threatening if not properly treated in a timely manner. The condition required emergency surgery to save the arm. Mr. Bhalai eventually underwent three surgical procedures, including a fasciotomy, a carpal tunnel release, and a large skin graft, in attempts to restore full use of his arm and hand. He was in the hospital for eight days of treatment and care, and was unable to work for over one year.



Following the accident, driver Amigo telephoned his employer, Lopefra Corporation, and informed them of the accident. Amigo did not notify the local police department of the accident as required by Florida law. Lopefra sent their safety manager to the accident site to conduct an investigation – an action which was self-serving at best. The safety manager simply photographed the Lopefra vehicle and dumpster, and then instructed driver Amigo to leave the scene. Neither the driver nor the company's safety manager notified the police. The safety manager did not interview Mr. Bhalai or his fellow employees.

After six months of painful physical therapy, Mr. Bhalai retained a workers' compensation attorney who obtained a small settlement based on his past medical expenses and lost wages. The treating physicians informed Mr. Bhalai that, as a result of his injuries, it was doubtful he would ever again be able to work in the construction industry. Because of the accident and the doctors' prognoses, Mr. Bhalai would likely not be able to keep his job, or to get another one. He would be unable to provide for his children. The news was devastating for him, both financially and emotionally.

Believing that he had been the victim of an injustice and that something more should have been done to compensate for his injuries, Mr. Bhalai asked his workers' compensation attorney what could be done. He was advised to contact SDSBS attorney **Darryl Lewis**. Mr. Bhalai's case was assigned to attorneys **John Shipley** and **Brian Denney**, who initiated an extensive investigation of the accident. Upon learning that no police investigation had been conducted and that the truck did not have an audible backup warning, Mr. Bhalai's attorneys filed suit against the Lopefra Corporation and Mr. Amigo.

Discovery revealed that the Lopefra driver had violated the rules of the road for commercially-licensed drivers. Incredibly, Lopefra Corporation and its insurer argued that the incident and resulting injuries were entirely the fault of Mr. Bhalai. Defendants claimed that their truck was in perfect working order, and that Mr. Bhalai had been specifically instructed not to assist their driver in placing the dumpster. With liability hotly contested, the case proceeded to trial.

Following five days of trial, a Broward County jury awarded Mr. Bhalai \$823,342 for his pain and suffering, and for past and future medical treatment. Mr. Bhalai plans to use these funds for his continued medical care and rehabilitation, and to help take care of his children. The jury's verdict was over 50 times more than the amount offered prior to trial. ■