

SUPREME COURT OF INDIANA

Northern Indiana Public Service Company v. Sharp

Northern Indiana Public Service Co. v. Sharp, 790 N.E.2d 462 (Ind. 2003) · No. No. 64S03-0306-CV-284 ·
Decided June 27, 2003

SUMMARY

The Indiana Supreme Court held that Northern Indiana Public Service Company owed Robert Sharp, a member of the general public, a duty to exercise reasonable care to keep its electrical transmission lines safely insulated where the public might come into contact with them. The court concluded that whether NIPSCO's conduct constituted gross negligence was a fact question for the jury and affirmed the jury verdict and trial court judgment for Sharp's estate. The court also held that judgment on the evidence was improper because reasonable people could reach different conclusions regarding gross negligence.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Rucker, Justice; Shepard, C.J.; Dickson, Justice; Boehm, Justice; Sullivan, Justice
JURISDICTION	Indiana
DECIDED	June 27, 2003
DOCKET	No. 64S03-0306-CV-284
DISPOSITION	affirmed
PROCEDURAL POSTURE	On petition to transfer from the Indiana Court of Appeals, NIPSCO sought review of the reversal of a jury verdict and trial-court judgment entered for Sharp's estate. The Supreme Court of Indiana granted transfer and affirmed.
STANDARD OF REVIEW	Review of a ruling on a motion for judgment on the evidence is the same as the trial court's review. Judgment on the evidence is proper only when all or part of an issue is unsupported by sufficient evidence; when the evidence and reasonable inferences permit reasonable people to reach differing conclusions, judgment on the evidence is improper.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Indiana

PARTIES

Northern Indiana Public Service Company v. Grace Sharp, as
Administratrix of the Estate of Robert Sharp

TOPICS

negligence duty of care standard of review appellate procedure personal injury

PRACTICE AREAS

negligence personal injury appellate procedure municipal law

QUESTIONS PRESENTED

1. Whether the Court of Appeals erred by applying the three-part Webb balancing test to determine whether NIPSCO owed Sharp a duty of care.
2. Whether the evidence was sufficient to allow the jury to find that NIPSCO breached its established duty through gross negligence.
3. Whether the trial court properly denied NIPSCO's motions for judgment on the evidence.

HOLDINGS

1. The three-part balancing test from Webb v. Jarvis is needed only when the duty at issue has not already been declared or articulated. Because Indiana law had already established the duty owed by electric utilities to members of the general public, the test was unnecessary.
2. The duty NIPSCO owed Sharp remained the duty to exercise reasonable care to keep its transmission lines safely insulated where the general public may come into contact with them, but gross negligence required proof of a more culpable breach: a conscious, voluntary act or omission in reckless disregard of the consequences.
3. Because the conflicting evidence permitted more than one reasonable inference regarding whether NIPSCO's conduct constituted gross negligence, breach and gross negligence were questions for the jury rather than grounds for judgment on the evidence.

KEY QUOTATIONS

"Because the duty that NIPSCO owes to members of the general public already has been declared, it is unnecessary to apply the three-part balancing test announced in Webb to determine the duty NIPSCO owed Sharp, a member of the general public." (465)

"More precisely, to prove gross negligence the estate had the burden of demonstrating that NIPSCO breached its duty to exercise reasonable care to keep its transmission lines safely insulated in places where the general public may come into contact with them by engaging in a conscious, voluntary act or omission in reckless disregard of the consequences to Sharp." (466)

"When the evidence, together with the reasonable inferences to be drawn therefrom, would allow reasonable people to come to differing conclusions, then judgment on the evidence is improper." (467)

FACTUAL BACKGROUND

During severe flooding in Northwest Indiana, the Town of Highland hired Krooswyk Trucking to construct a makeshift dike. Robert Sharp was driving a gravel-loaded dump truck when its raised bed contacted overhead electrical wires, energizing the truck and electrocuting him as he stepped onto the wet ground. The estate alleged that NIPSCO, the utility responsible for shutting off power to the flooded area, acted with gross negligence by failing to de-energize the area.

PROCEDURAL HISTORY

Sharp's estate sued the Town of Highland and NIPSCO after Robert Sharp was electrocuted by an energized truck during flood-control work. The Court of Appeals previously held that the defendants were immune from ordinary-negligence liability but remanded the case for trial on whether NIPSCO's conduct constituted willful misconduct, gross negligence, or bad faith. After a jury found Sharp and NIPSCO each fifty percent at fault and awarded the estate \$750,000, the Court of Appeals reversed, holding that the estate failed to prove NIPSCO owed Sharp a duty. The Supreme Court granted transfer and affirmed the trial court's judgment.

DISPOSITION

affirmed

CASES CITED

- Sharp v. Town of Highland, 665 N.E.2d 610 (Ind. Ct. App. 1996), trans. denied
- NIPSCO v. Sharp, 732 N.E.2d 848, 851 (Ind. Ct. App. 2000)
- Webb v. Jarvis, 575 N.E.2d 992 (Ind. 1991)
- Muex v. Hindel Bowling Lanes, Inc., 596 N.E.2d 263, 266 (Ind. Ct. App. 1992)
- Miller v. Griesel, 261 Ind. 604, 308 N.E.2d 701, 706 (1974)
- Mangold v. Ind. Dep't of Natural Res., 756 N.E.2d 970, 974-75 n. 1 (Ind. 2001)
- NIPSCO v. E. Chicago Sanitary Dist., 590 N.E.2d 1067, 1072 (Ind. Ct. App. 1992)
- Brown v. NIPSCO, 496 N.E.2d 794, 797 (Ind. Ct. App. 1986), trans. denied
- Petroski v. NIPSCO, 171 Ind. App. 14, 354 N.E.2d 736, 741 (1976)
- Rogers v. Grunden, 589 N.E.2d 248, 256 (Ind. Ct. App. 1992), trans. denied
- Stump v. Commercial Union, 601 N.E.2d 327, 332 n. 5 (Ind. 1992)
- Stephenson v. Ledbetter, 596 N.E.2d 1369, 1371-72 (Ind. 1992)
- Kirchoff v. Selby, 703 N.E.2d 644, 648 (Ind. 1998)
- Bonnes v. Feldner, 642 N.E.2d 217, 220 (Ind. 1994)