

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Marion Collins v. N-Ren Corporation

604 F.2d 659 (10th Cir. 1979) · No. No. 77-2052 · Decided August 24, 1979

SUMMARY

The United States Court of Appeals for the Tenth Circuit held that Marion Collins presented sufficient evidence to proceed under Oklahoma's doctrine of res ipsa loquitur after an explosion at a fertilizer plant injured him. The court concluded that the trial court improperly denied the inference of negligence and reversed and remanded for a new trial.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Barrett, Circuit Judge; Seth, Chief Judge; McKay, Circuit Judge
JURISDICTION	Federal
DECIDED	August 24, 1979
DOCKET	No. 77-2052
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an adverse judgment entered after a bench trial in a diversity action seeking damages under the doctrine of res ipsa loquitur.
STANDARD OF REVIEW	The court reviewed the trial court's legal determination regarding the availability of res ipsa loquitur and whether Collins established a prima facie case.
PRECEDENTIAL VALUE	Published federal appellate opinion applying Oklahoma law; precedential within the Tenth Circuit subject to subsequent treatment.
PARTIES	Marion Collins v. N-Ren Corporation

TOPICS

- negligence
- torts
- evidence
- appellate procedure
- standard of care

PRACTICE AREAS

- Torts
- Evidence
- Appellate Procedure

QUESTIONS PRESENTED

1. Whether Collins established the elements of a prima facie case under Oklahoma's doctrine of res ipsa loquitur.
2. Whether the inability to identify the precise origin of the fire prevented Collins from invoking res ipsa loquitur.
3. Whether the evidence was sufficient to permit an inference of negligence and require rebuttal by N-Ren.

HOLDINGS

1. Collins established a prima facie case permitting him to proceed under res ipsa loquitur because the explosion was an event that ordinarily would not occur absent someone's negligence, the plant was within Cherokee's exclusive control, and Collins did not voluntarily act or contribute to his injuries.
2. Collins was not required to establish the precise origin of the fire to invoke res ipsa loquitur where he established that the fire caused the explosion, that the plant was under the defendant's exclusive control, and that direct proof of the cause and negligence was beyond his power.
3. N-Ren failed to submit rebuttal evidence sufficient to overcome the inference of negligence activated by Collins's prima facie showing.

KEY QUOTATIONS

“The purpose of Res ipsa loquitur is to aid the plaintiff in making a Prima facie case of negligence on the part of the defendant by allowing the trier of facts to infer negligence as a legitimate deduction of fact from fundamental facts established by competent evidence on the theory that common experience of men tells one that, in such a situation and in the ordinary course of events, injury or damage complained of by plaintiff would not have occurred in absence of negligence on part of defendant.” (¶ 7)

“We hold that Collins presented sufficient evidence to activate the inference of Cherokee's negligence under the doctrine of Res ipsa loquitur and that Cherokee failed to submit rebuttal evidence sufficient to overcome the inference.” (¶ 16)

FACTUAL BACKGROUND

A fire began in Cherokee Nitrogen Company's ammonium nitrate fertilizer warehouse, and high winds carried burning debris onto adjacent National Gypsum property, where Collins was helping control grass fires. The warehouse then exploded, injuring Collins approximately 300 yards away and causing, among other injuries, partial hearing loss. Evidence showed that the warehouse contained approximately 15,000 tons of ammonium nitrate, lacked sprinkler or adequate firefighting equipment, and contained conveyor rollers that had previously stuck, scraped rubber from the belt, and become worn. Experts could not identify the precise origin of the fire, but testified that the conveyor or its rollers plausibly could have initiated the fire and explosion.

PROCEDURAL HISTORY

Collins was injured by an explosion at a fertilizer plant owned and operated by Cherokee Nitrogen Company, which later merged into N-Ren Corporation. He sued N-Ren for damages. After a trial to the court, the trial court

concluded that *res ipsa loquitur* did not apply and entered judgment for N-Ren. Collins appealed, challenging that determination as a matter of law.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reversed and remanded for a new trial.

CASES CITED

- Federal Insurance Co. v. United States, 538 F.2d 300 (10th Cir. 1976)
- Lang v. Amateur Softball Association of America, 520 P.2d 659 (Okla. 1974)
- Green v. Safeway Stores, Inc., 541 P.2d 200 (Okla. 1975)
- St. John's Hospital & School of Nursing, Inc. v. Chapman, 434 P.2d 160 (Okla. 1967)
- Martin v. Stratton, 515 P.2d 1366 (Okla. 1973)
- Briscoe v. Oklahoma Natural Gas Company, 509 P.2d 126 (Okla. 1973)
- Flick v. Crouch, 555 P.2d 1274 (Okla. 1976)
- Turney v. Anspaugh, 581 P.2d 1301 (Okla. 1978)