

SUPREME COURT OF ILLINOIS

Dunn v. Baltimore & Ohio Railroad Co., 127 Ill. 2d 350

537 N.E.2d 738 (1989) · No. No. 66326 · Decided March 29, 1989

SUMMARY

The Supreme Court of Illinois considered negligence and wrongful-death claims arising from a motorcyclist's collision with a stopped railroad car at a crossing. The court held that comparative negligence did not alter the railroad's duty under the traditional stopped-train rule, and that the complaint failed to allege special circumstances requiring additional warnings. The court also held that alleged violations of Illinois Commerce Commission crossing-safety rules did not state a cause of action because the rules were not intended to protect against the type of injury alleged.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Stamos
JURISDICTION	Illinois
DECIDED	March 29, 1989
DOCKET	No. 66326
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Illinois Supreme Court reviewed the appellate court's partial affirmance and partial reversal of the circuit court's dismissal with prejudice of plaintiffs' third amended complaint. The defendant appealed, and the plaintiffs cross-appealed, after the court granted defendant leave to appeal.
STANDARD OF REVIEW	De novo review of the sufficiency of the complaint on a motion to dismiss, considering only well-pleaded facts alleged in the complaint and attached exhibits.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; precedential.
PARTIES	The Baltimore & Ohio Railroad Company v. Arley Dunn and Nada Lou Dunn, as co-administrators of the Estate of Lyle E. Dunn

TOPICS

- negligence
- duty of care
- proximate cause
- appellate procedure
- motions to dismiss

PRACTICE AREAS

torts

negligence

railroad crossing liability

appellate procedure

pleading

QUESTIONS PRESENTED

1. Whether the complaint stated a common-law negligence claim based on the railroad's failure to provide additional warnings of a stopped train at a crossing.
2. Whether darkness, lack of lighting, traffic, the grade and condition of the crossing, and alleged distractions constituted special circumstances creating an exception to the rule that a stopped train is adequate warning of its presence.
3. Whether the adoption of comparative negligence altered or expanded the railroad's duty to warn motorists approaching a standing train.
4. Whether the railroad's failure to place a flagman or flares at the rear of the train could be a legal duty or proximate cause of a motorist's collision with the side of the train.
5. Whether alleged violations of Illinois Commerce Commission crossing-safety rules stated a cause of action where the rules were not intended to prevent collisions between motorists and stopped trains.
6. Whether plaintiffs waived appellate challenges to the dismissal of the wilful-and-wanton counts and allegations concerning the railroad's failure to discover that a collision had occurred.

HOLDINGS

1. A stopped train at a crossing generally constitutes adequate notice and warning of its presence to a traveler exercising ordinary care; additional warnings are required only when special or extraordinary circumstances are alleged. The complaint did not allege circumstances sufficient to invoke that exception and therefore failed to state a common-law negligence claim concerning the initial collision.
2. The adoption of comparative-negligence principles did not expand or otherwise alter the duty owed by a railroad to motorists approaching a standing train at a crossing.
3. The alleged failure to place a flagman or flares at the rear of a stopped train did not state a negligence claim because the alleged omission had no relationship to the decedent's collision with the side of the train and could not, as a matter of law, be the proximate cause of that collision.
4. Counts alleging negligent violation of Illinois Commerce Commission crossing-safety rules failed to state a cause of action because the rules were not intended to protect motorists from collisions with stopped trains and the alleged violations could not proximately cause the collision described in the complaint.
5. Plaintiffs waived any error in the dismissal of the wilful-and-wanton counts and of the allegations that the train crew negligently failed to discover that a collision had occurred before restarting the train because plaintiffs presented no appellate argument addressing those claims.

KEY QUOTATIONS

"We hold today that the adoption of comparative negligence does not expand or otherwise alter the duty owed by a railroad to motorists approaching a standing train at a crossing." (at 365)

“In sum, we are persuaded that the adoption of comparative negligence principles did not alter the duty owed by a railroad to motorists approaching a standing train, and we reject the appellate court's view to the contrary.” (at 367)

“In short, the circuit court did not err in dismissing plaintiffs' third amended complaint with prejudice.” (at 373)

FACTUAL BACKGROUND

On October 29, 1983, Lyle E. Dunn was operating a motorcycle at night when he collided with the side of a railroad car stopped across a crossing and died. His parents alleged that the railroad negligently and wilfully and wantonly failed to provide warnings, maintained an unsafe crossing, violated Illinois Commerce Commission rules, and restarted the train after the collision without discovering that an unusual event had occurred. The complaint asserted four survival actions and four wrongful-death actions.

PROCEDURAL HISTORY

Plaintiffs brought survival and wrongful-death claims alleging negligence and wilful and wanton conduct after their decedent collided with a stopped railroad car. The Douglas County circuit court dismissed the third amended complaint with prejudice. The appellate court affirmed in part and reversed in part, remanding with directions. The Illinois Supreme Court affirmed in part and reversed in part, ultimately affirming the circuit court's dismissal with prejudice.

DISPOSITION

affirmed

CASES CITED

- *Petricek v. Elgin, J. & E. Ry. Co.*, 21 Ill. App. 2d 60, 65-66 (1959)
- *Langston v. Chicago & North Western Ry. Co.*, 398 Ill. 248, 255 (1947)
- *Bachman v. Illinois Central R.R. Co.*, 132 Ill. App. 2d 277 (1971)
- *Alvis v. Ribar*, 85 Ill. 2d 1 (1981)
- *People ex rel. Fahner v. Carriage Way West, Inc.*, 88 Ill. 2d 300 (1981)
- *Knox College v. Celotex Corp.*, 88 Ill. 2d 407 (1981)
- *Cain v. American National Bank & Trust Co.*, 26 Ill. App. 3d 574, 578 (1975)
- *Curtis v. County of Cook*, 98 Ill. 2d 158, 163 (1983)
- *Clarkson v. Wright*, 108 Ill. 2d 129, 133-34 (1985)
- *Frankenthal v. Grand Trunk Western R.R. Co.*, 120 Ill. App. 3d 409, 415 (1983)
- *Carroll v. Commonwealth Edison Co.*, 147 Ill. App. 3d 909 (1986)
- *Lohan v. Walgreens Co.*, 140 Ill. App. 3d 171 (1986)
- *Thompson v. Stearns Chemical Corp.*, 345 N.W.2d 131, 134 (Iowa 1984)
- *Britt v. Allen County Community Junior College*, 230 Kan. 502, 505, 638 P.2d 914, 917 (1982)

- Bowers v. Ottenad, 240 Kan. 208, 729 P.2d 1103 (1986)
- Barthel v. Illinois Central Gulf R.R. Co., 74 Ill. 2d 213, 219-20 (1978)
- Fox v. Illinois Central R.R. Co., 308 Ill. App. 367, 374 (1941)
- Havens v. Harris Township, 175 Ill. App. 3d 768, 771 (1988)
- Janes v. First Federal Savings & Loan Association, 57 Ill. 2d 398, 405-06 (1974)
- Village of Lake in the Hills v. Illinois Emcasco Insurance Co., 153 Ill. App. 3d 815, 818 (1987)
- Reardon v. Ford Motor Co., 7 Ill. App. 3d 338, 345-46 (1972)

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