

APPELLATE COURT OF ILLINOIS

Applegate v. Chicago & North Western Railway Co.

334 Ill. App. 141 (Ill. App. Ct. 1948) · Decided March 9, 1948

SUMMARY

The Illinois Appellate Court reviewed judgments awarding damages for deaths caused by a collision at a railroad crossing. The court held that conflicting evidence regarding warning signals, train speed, crossing hazards, and the decedents’ reliance on malfunctioning crossing lights warranted submission of negligence and contributory-negligence issues to the jury. The court affirmed the circuit court’s judgments.

CASE DETAILS

COURT	Appellate Court of Illinois
WRITING FOR THE COURT	Justice Bristow
JURISDICTION	Illinois
DECIDED	March 9, 1948
DISPOSITION	affirmed
PROCEDURAL POSTURE	Railroad defendant appealed from judgments entered on jury verdicts awarding damages for the deaths of plaintiffs' intestates. The defendant challenged the denial of its motions for a directed verdict, judgment notwithstanding the verdict, and a new trial.
STANDARD OF REVIEW	On review of the denial of a directed verdict and judgment notwithstanding the verdict, the court considered whether the evidence, viewed with all legitimate inferences most favorably to the plaintiffs, established evidence from which reasonable persons could find railroad negligence, proximate cause, and due care. Contributory negligence was a question of law only when the allegedly negligent conduct was such that all reasonable persons would agree it constituted negligence. The court also reviewed whether the judgment was against the weight of the evidence.
PRECEDENTIAL VALUE	Published Illinois Appellate Court opinion
PARTIES	Chicago & North Western Railway Co. v. Robert Applegate, Hugh Scott

TOPICS

negligence

wrongful death

contributory negligence

appellate procedure

standard of care

PRACTICE AREAS

torts

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evidence

QUESTIONS PRESENTED

1. Whether the evidence supported submitting to the jury whether the railroad was negligent in its warnings, train speed, and crossing protection.
2. Whether the railroad's compliance with the statutory bell-and-whistle requirement precluded a finding of common-law negligence based on ineffective warning.
3. Whether the failure of the automatic crossing signals constituted negligence without proof that the railroad had actual or constructive notice of the defect.
4. Whether the decedents were contributorily negligent as a matter of law because they proceeded across the tracks while a receding freight train obstructed their view.
5. Whether the circuit court erred in denying the railroad's motions for a directed verdict, judgment notwithstanding the verdict, and new trial.

HOLDINGS

1. The evidence was sufficient to submit to the jury whether the railroad negligently failed to provide effective warnings, operated the streamliner at an excessive speed under the circumstances, and furnished adequate crossing protection.
2. Compliance with the Illinois bell-and-whistle statute did not eliminate the railroad's separate common-law duty to provide an effective and timely warning under the circumstances.
3. The alleged failure of the automatic signals, standing alone, did not establish railroad negligence absent evidence that the railroad had actual or constructive notice of the defect; however, the failure was relevant to the adequacy of crossing protection and to contributory negligence.
4. The decedents' conduct in proceeding across the crossing when the warning signals suddenly stopped functioning while a freight train obstructed their view was not contributory negligence as a matter of law.

FACTUAL BACKGROUND

On October 1, 1945, Everett Applegate, Mable Scott, and Maxine Scott were traveling west on 27th Street in Zion, Illinois, when their automobile entered a four-track railroad crossing. A freight train was passing over one track, allegedly obscuring the view of a second track, while an approaching streamliner traveled on the second track at approximately 90 miles per hour. Witnesses testified that the crossing's automatic warning lights stopped flashing after the freight train cleared the pavement and resumed irregularly shortly before the collision; the streamliner then struck the automobile, killing all three occupants.

PROCEDURAL HISTORY

After a jury trial in the Circuit Court of Lake County, Illinois, verdicts were returned for the plaintiffs in wrongful-death actions arising from a railroad-crossing collision. The circuit court denied the defendant's post-trial motions and entered judgment on the verdicts. The Appellate Court of Illinois affirmed.

DISPOSITION

affirmed

CASES CITED

- Illinois Cent. R. Co. v. Oswald, 338 Ill. 270
- Nardoni v. Chicago & E. I. Ry. Co., 261 Ill. App. 339
- Morgan v. New York Cent. R. Co., 327 Ill. 339, 343
- Berg v. New York Cent. R. Co., 391 Ill. 52, 56
- Continental Improvement Co. v. Stead, 95 U.S. 161, 24 L. Ed. 403
- Nice v. Illinois Cent. R. Co., 303 Ill. App. 292
- Wagner v. Toledo, P. & W. R., 352 Ill. 85
- Humbert v. Lowden, 385 Ill. 437
- Ballentine v. Illinois Cent. R. Co., 157 Ill. App. 295
- Leif v. Fleming, 321 Ill. App. 297
- Waterbury v. Chicago, M. & St. P. Ry. Co., 207 Ill. App. 375, 380
- Grand Trunk Ry. Co. of Canada v. Ives, 144 U.S. 408
- Miller v. Atlantic Coastline R. Co., 140 S.C. 123, 138 S.E. 675, 687
- Callison v. Charleston & W. C. Ry. Co., 106 S.C. 123, 90 S.E. 260, 263
- Chicago, R. I. & G. Ry. Co. v. Zumwalt, 239 S.W. 912
- Price v. Chicago & E. I. Ry. Co., 270 Ill. App. 111, 116
- Chicago, B. & Q. R. Co. v. Pollock, 195 Ill. 156
- Niemi v. Sprague, 288 Ill. App. 372, 385
- Langston v. Chicago & N. W. Ry. Co., 398 Ill. 248
- Grubb v. Illinois Terminal Co., 366 Ill. 330, 337
- Whiffin v. Union Pac. Ry. Co., 60 Idaho 141, 89 P. (2d) 540, 548
- George v. Northern Pac. R. Co., 59 Mont. 162, 196 Pac. 869, 871
- Lamb v. Pere Marquette Ry. Co., 221 Mich. 273, 191 N.W. 227, 229
- Brown v. St. Louis-San Francisco Ry. Co., 121 Kan. 32, 245 Pac. 1034
- Pennsylvania R. Co. v. Rusynik, 117 Ohio St. 530, 159 N.E. 826, 828
- Gills v. New York, C. & St. L. R. Co., 342 Ill. 455

