

SUPREME COURT OF OKLAHOMA

National Union Fire Insurance Company v. Elliott; Ida M. Adams v. Elliott

298 P.2d 448 (Okla. 1956) · No. No. 37115 · Decided June 5, 1956

SUMMARY

The Oklahoma Supreme Court reviewed consolidated actions seeking damages for fire loss to standing wheat allegedly caused by a truck used in custom harvesting. The court held that res ipsa loquitur did not apply because the evidence established only that the fire occurred near the defendant's truck, not that the truck caused the fire, and affirmed judgments sustaining demurrers to the plaintiffs' evidence.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Corn, Justice; Johnson, C.J.; Williams, V.C.J.; Davison, J.; Jackson, J.; Hunt, J.; Halley, J.; Blackbird, J.
JURISDICTION	Oklahoma
DECIDED	June 5, 1956
DOCKET	No. 37115
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeal from judgments sustaining the defendant's demurrers to the plaintiffs' evidence in two negligence actions arising from a wheat-field fire.
STANDARD OF REVIEW	Whether the plaintiffs' evidence was legally sufficient to withstand demurrer and establish a prima facie case of negligence under the res ipsa loquitur doctrine.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential.
PARTIES	National Union Fire Insurance Company, Ida M. Adams v. John Elliott

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence established the foundational fact necessary to invoke *res ipsa loquitur*—namely, that the defendant's truck or another instrumentality under his exclusive control caused the fire.
2. Whether the unexplained occurrence of a fire near the defendant's truck, without proof that the truck caused it, was sufficient to establish a *prima facie* negligence case and defeat demurrers to the plaintiffs' evidence.

HOLDINGS

1. *Res ipsa loquitur* does not apply unless the plaintiff first establishes the instrumentality that caused the injury or damage and shows that it was under the defendant's exclusive control. An unexplained accident or lack of knowledge about its cause cannot supply that foundational fact.
2. The plaintiffs' evidence was insufficient to establish negligence or a *prima facie* case under *res ipsa loquitur*; the trial court properly sustained the defendant's demurrers and entered judgment for him.

KEY QUOTATIONS

“The mere fact that an accident has occurred under mysterious or unexplained circumstances provides no basis for application of the doctrine which, as so often pointed out, is a rule of evidence only.” (451)

“Although the petition alleged that the fire started in defendant's truck, there was no evidence to support the allegation.” (451)

FACTUAL BACKGROUND

Elliott and his employees were custom harvesting wheat in a Kansas field when Elliott drove a truck carrying harvested wheat to another part of the field and left it. Shortly afterward, the truck and surrounding stubble were engulfed in fire, and the fire burned 89.45 acres, including 36.45 acres of uncut wheat. The evidence showed that the fire occurred in the vicinity of Elliott's truck, but did not establish that the fire started in the truck or identify its cause. National Union paid the tenants' insured fire loss and obtained their subrogation rights; Adams sought recovery for her crop-rental interest.

PROCEDURAL HISTORY

National Union Fire Insurance Company, as subrogee of the tenants' fire-loss claim, and Ida M. Adams, whose crop-rental interest was damaged, brought separate actions against John Elliott. The actions were consolidated for trial without a jury. After the plaintiffs presented their evidence, the trial court sustained separate demurrers and entered judgment for Elliott; the plaintiffs' motions for new trial were overruled, and they appealed.

DISPOSITION

affirmed

CASES CITED

- Emigh v. Andrews, 164 Kan. 732, 191 P.2d 901 (1948)
- Mayes v. Kansas City Power & Light Co., 121 Kan. 648, 249 P. 599 (1926)
- Stroud v. Sinclair Refining Co., 144 Kan. 74, 58 P.2d 77 (1936)
- Keefer v. Public Service Co. of Oklahoma, 185 Okla. 94, 90 P.2d 409 (1939)
- Cosden v. Wright, 202 Okla. 211, 211 P.2d 523 (1949)
- Champlin Refining Co. v. George, 182 Okla. 118, 76 P.2d 895 (1938)

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