

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Casto v. Arkansas-Louisiana Gas Co.

562 F.2d 622 (10th Cir. 1977) · Decided September 20, 1977

SUMMARY

The court held that Oklahoma law governed the availability of prejudgment interest in diversity personal-injury actions. Under 12 O.S. § 727(2), prejudgment interest was properly awarded on personal-injury damages, but not on exemplary damages because exemplary damages are punitive rather than compensatory. The judgment was affirmed in part, reversed to eliminate prejudgment interest on exemplary damages, and remanded for amendment.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	William E. Doyle
JURISDICTION	Federal
DECIDED	September 20, 1977
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a diversity judgment awarding prejudgment interest on personal-injury and exemplary-damage awards arising from a gas explosion.
PRECEDENTIAL VALUE	Published precedential decision of the United States Court of Appeals for the Tenth Circuit.
PARTIES	Arkansas-Louisiana Gas Co. v. Casto

TOPICS

- prejudgment interest
- punitive damages
- personal injury
- federalism
- appellate procedure

PRACTICE AREAS

- torts
- remedies
- civil procedure
- federalism
- appellate procedure

QUESTIONS PRESENTED

1. Whether Oklahoma or federal law governed the availability of prejudgment interest in this diversity action.

2. Whether Oklahoma law authorized prejudgment interest on damages awarded for personal injuries.
3. Whether Oklahoma law authorized prejudgment interest on an award of exemplary or punitive damages in a personal-injury action.

HOLDINGS

1. Oklahoma law, rather than federal law, governed the allowability of prejudgment interest on the recovery.
2. Under 12 O.S. Ann. § 727(2), prejudgment interest was properly awarded on the portion of the verdict attributable to personal injuries.
3. Prejudgment interest was not authorized on the exemplary-damage award because exemplary damages are punitive rather than damages by reason of personal injury.

KEY QUOTATIONS

“The Oklahoma statute, 12 O.S. Ann. § 727, subsection (2), provides for prejudgment interest as to damages for personal injury.” (625)

“Our view of the Oklahoma interest statute together with the Oklahoma exemplary damage statute is that award of prejudgment interest on the exemplary damages was not justified.” (626)

FACTUAL BACKGROUND

A gas explosion occurred in a residence on June 27, 1975, after Arkansas-Louisiana Gas Co. allegedly failed to add an odorant to its gas. The defendant was held responsible, and the jury awarded damages for personal injuries, property loss, and punitive damages. The district court awarded prejudgment interest on the personal-injury and punitive-damage awards.

PROCEDURAL HISTORY

A jury returned verdicts totaling \$345,000 for personal injuries, \$10,000 for property loss, and \$150,000 in punitive damages. The district court awarded prejudgment interest on the personal-injury and punitive-damage awards, but not on the property-loss award, and denied the defendant's motion to alter or amend the judgments. The Tenth Circuit affirmed the award of prejudgment interest on the personal-injury damages, reversed the award of prejudgment interest on the punitive damages, and remanded for amendment of the judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was directed to amend the judgment to eliminate prejudgment interest on the exemplary-damage award while leaving the prejudgment interest on the personal-injury damages undisturbed.

CASES CITED

- *Benson v. Blair*, 515 P.2d 1363 (Okla. 1973)
- *Erie Railroad Co. v. Tompkins*, 304 U.S. 64, 58 S.Ct. 817, 82 L.Ed. 1188 (1938)
- *Massachusetts Benefit Association v. Miles*, 137 U.S. 689, 11 S.Ct. 234, 34 L.Ed. 834 (1891)
- *Louisiana & Arkansas Railway Co. v. Export Drum Co.*, 359 F.2d 311, 317 (5th Cir. 1966)
- *Moore-McCormack Lines, Inc. v. Amirault*, 202 F.2d 893, 895 (1st Cir. 1953)
- *New Amsterdam Casualty Co. v. Soileau*, 167 F.2d 767, 772 (5th Cir. 1948)
- *Oresman v. G. D. Searle & Co.*, 388 F.Supp. 1175, 1178 (D.R.I. 1975)
- *Guaranty Trust Co. v. York*, 326 U.S. 99, 65 S.Ct. 1464, 89 L.Ed. 2079 (1945)
- *Hanna v. Plumer*, 380 U.S. 460, 85 S.Ct. 1136, 14 L.Ed.2d 8 (1965)
- *Klaxon Co. v. Stentor Electric Manufacturing Co., Inc.*, 313 U.S. 487, 61 S.Ct. 1020, 85 L.Ed. 1477 (1941)
- *Kinsella v. Leonard*, 415 F.2d 574 (1969)
- *Woodmont, Inc. v. Daniels*, 290 F.2d 186 (1961)
- *North Drive-In Theatre Corp. v. Park-In Theatres*, 248 F.2d 232 (1957)
- *Blake v. Grant*, 65 Wash.2d 410, 397 P.2d 843 (1964)
- *Ventoza v. Anderson*, 14 Wash.App. 882, 545 P.2d 1219 (1976)
- *Riss & Co. v. Feldman*, 79 A.2d 566 (D.C.Mun.App. 1951)