

SUPREME COURT OF TEXAS

Brookshire Grocery Co. v. Goss

262 S.W.3d 793 (Tex. 2008) · No. No. 07-0085 · Decided August 29, 2008

SUMMARY

The Supreme Court of Texas held that Brookshire Grocery owed no duty to warn an employee about the commonly known risk of maneuvering around a loaded cart. The court reversed the court of appeals and rendered judgment that the employee take nothing.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	August 29, 2008
DOCKET	No. 07-0085
DISPOSITION	reversed
PROCEDURAL POSTURE	Brookshire petitioned the Supreme Court of Texas for review after the court of appeals affirmed a trial-court judgment entered on a jury verdict finding Brookshire negligent and awarding Goss damages.
STANDARD OF REVIEW	The Supreme Court reviewed the legal question of duty de novo as a threshold issue of liability and reviewed the judgment following the jury verdict.
PRECEDENTIAL VALUE	Published Texas Supreme Court opinion; precedential
PARTIES	Brookshire Grocery Company v. Barbara Goss

TOPICS

- duty of care
- negligence
- personal injury
- standard of care
- appellate procedure

PRACTICE AREAS

- torts
- negligence
- personal injury
- employment law

QUESTIONS PRESENTED

1. Whether Brookshire owed Goss a duty to warn or provide specialized training concerning the danger of maneuvering around a loaded lowboy cart in a confined cooler.

2. Whether the court of appeals improperly characterized Brookshire's duty argument as an unavailable assumption-of-risk defense.

HOLDINGS

1. Brookshire owed Goss no duty to warn her of, or provide specialized training concerning, the risk of stepping around a loaded lowboy cart because that danger was commonly known and appreciated by Goss.
2. The absence of a duty to warn is a threshold element of liability, not an affirmative assumption-of-risk defense.

KEY QUOTATIONS

“Because we conclude that Brookshire owed no duty to warn Goss of a risk commonly known and appreciated, we grant the petition for review and, without hearing argument, we reverse the court of appeals’ judgment and render judgment for Brookshire.” (795)

“Because we conclude that any danger of stepping around such carts is commonly known, we hold that the employer had no duty to warn employees of the risk or provide specialized training to avoid that hazard.” (794)

FACTUAL BACKGROUND

Barbara Goss, a Brookshire Grocery employee, entered a deli cooler containing a loaded lowboy cart stocked two to three feet high with frozen food. She stepped over the cart when entering, but struck her shin on it while leaving and injured her back when she reached for a shelf to prevent a fall. Goss had previously encountered lowboy carts in the course of her work, and the cart was stationary and visible.

PROCEDURAL HISTORY

Goss sued Brookshire, alleging that it negligently failed to warn employees about the risks of maneuvering around loaded lowboy carts. The jury found Brookshire's negligence was a proximate cause of Goss's injuries and awarded damages. The court of appeals affirmed, concluding that Brookshire owed Goss a duty to warn; the Supreme Court of Texas granted review and reversed, rendering judgment for Brookshire.

DISPOSITION

reversed

CASES CITED

- Kroger Co. v. Elwood, 197 S.W.3d 793 (Tex. 2006)
- Jack in the Box, Inc. v. Skiles, 221 S.W.3d 566 (Tex. 2007)
- Gen. Elec. Co. v. Moritz, 257 S.W.3d 211 (Tex. 2008)
- In re Brookshire Grocery Co., 250 S.W.3d 66 (Tex. 2008)
- 208 S.W.3d 706, 715-23

