SUPREME COURT OF PENNSYLVANIA

Walsh v. Medical Professional Liability Catastrophe Loss Fund, 576 Pa. 72

838 A.2d 692 (2003) · Decided December 18, 2003

SUMMARY

The Pennsylvania Supreme Court considered whether the Medical Professional Liability Catastrophe Loss Fund was liable for delay damages exceeding its statutory coverage cap, whether it could credit against its liability amounts contributed toward an appeal bond, and whether it owed post-judgment interest. The Court upheld the Fund’s position on the delay-damages and security-credit issues. It held, however, that the Fund was liable for post-judgment interest on its pro rata share of the judgment and remanded for calculation of that interest.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Nigro; Cappy; Castille; Eakin; Newman; Nigro; Saylor; Zappala
JURISDICTION	Pennsylvania
DECIDED	December 18, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Commonwealth Court's grant of summary judgment in favor of the Medical Professional Liability Catastrophe Loss Fund in an assignee's action concerning delay damages, credit for supersedeas security, and post-judgment interest.
STANDARD OF REVIEW	Summary judgment is proper when, viewing the record in the light most favorable to the nonmoving party, no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Samuel Walsh, assignee of Henrietta Kubiak, executrix of the Estate of Richard Kubiak, M.D. v. Medical Professional Liability Catastrophe Loss Fund

TOPICS

insurance coverage | excess insurance | duty to indemnify | summary judgment | damages

PRACTICE AREAS

insurance | medical malpractice | health law | remedies | civil procedure

QUESTIONS PRESENTED

1. Whether the CAT Fund was liable for delay damages exceeding its $1,000,000 statutory cap under an equitable indemnification theory.
2. Whether the CAT Fund was entitled to credit against its statutory liability for the $537,301.86 it contributed toward the posted appeal security.
3. Whether the CAT Fund was liable for post-judgment interest on its $1,000,000 pro rata share of the judgment.
4. Whether the CAT Fund was liable for post-judgment interest on the portion of the judgment exceeding its pro rata share.

HOLDINGS

1. The CAT Fund was not liable for delay damages above its $1,000,000 statutory obligation because the record did not establish that it exercised exclusive control over the settlement negotiations.
2. The CAT Fund was entitled to credit $537,301.86 against its $1,000,000 statutory obligation because it reimbursed PIC for that portion of the posted security.
3. The CAT Fund was liable for post-judgment interest on its $1,000,000 pro rata share of the judgment, even though the interest caused its total liability to exceed the statutory cap.
4. The CAT Fund was not liable for post-judgment interest on the portion of the judgment exceeding its pro rata share.

KEY QUOTATIONS

> *"Given the CAT Fund's concession and the clear legal precedent in this regard, it was clearly erroneous for the court to deny interest on the $1,000,000 liability."* (at 699-700)

> *"Incollingo did not create a general rule that all insurers are required to pay interest on more than their pro-rata share of judgments, and it certainly cannot be read to impose such an obligation on the statutorily-created CAT Fund."* (at 700)

FACTUAL BACKGROUND

Dr. Richard Kubiak was insured by Physician's Insurance Company for $200,000, while the CAT Fund provided excess coverage of $1,000,000. Walsh demanded $1,200,000 before trial, but neither PIC nor the CAT Fund offered money toward settlement; a jury later returned a $2,600,000 verdict, which the trial court increased with delay damages to $5,054,325. PIC posted appeal security, and the CAT Fund reimbursed PIC $537,301.86 of that security before paying the remaining $462,698 of its statutory liability. Walsh subsequently obtained an assignment of the Estate's claims against the CAT Fund.

PROCEDURAL HISTORY

A jury awarded Walsh $2,600,000 in a medical malpractice action, and the trial court molded the verdict to include $2,454,325 in delay damages. After the judgment was affirmed on appeal, the CAT Fund paid the remaining portion of its statutory liability after receiving credit for funds it had contributed to the appeal security. Walsh, as assignee of the Estate's claims, sued the CAT Fund in the Commonwealth Court. The Commonwealth Court granted the CAT Fund summary judgment. The Supreme Court of Pennsylvania affirmed on the delay-damages and security-credit claims, but reversed and remanded on post-judgment interest attributable to the CAT Fund's pro rata share.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Commonwealth Court was instructed to calculate the post-judgment interest owed on the CAT Fund's $1,000,000 pro rata share and enter judgment in Walsh's favor for that amount.

CASES CITED

- Willett v. Pennsylvania Medical Catastrophe Loss Fund, 549 Pa. 613, 702 A.2d 850 (1997)
- Lahav v. Main Line Ob/Gyn Assocs., P.C., 556 Pa. 245, 727 A.2d 1104 (1999)
- Builders Supply Co. v. McCabe, 366 Pa. 322, 77 A.2d 368 (1951)
- Montgomery Hospital v. Medical Professional Liability Catastrophe Loss Fund, 668 A.2d 221 (Pa. Commw. 1995)
- Montgomery Hospital v. Medical Professional Liability Catastrophe Loss Fund, 686 A.2d 432 (Pa. Commw. 1996)
- Incollingo v. Ewing, 474 Pa. 527, 379 A.2d 79 (1977)
- Walsh v. PIC, No. 03402 PHL 1996, 704 A.2d 1129 (Pa. Super. 1997)
- Hennessey v. Pennsylvania Board of Pardons, 655 A.2d 218 (Pa. Commw. 1995)
- Marks v. Tasman, 527 Pa. 132, 589 A.2d 205 (1991)
- McClure v. Deerland Corp., 401 Pa. Super. 226, 585 A.2d 19 (1991)
- Beary v. Container General Corp., 390 Pa. Super. 53, 568 A.2d 190 (1989)