

SUPREME COURT OF WISCONSIN

Corning v. Dec Aviation Corp., 50 Wis. 2d 441

184 N.W.2d 152 (1971) · No. No. 94 · Decided March 5, 1971

SUMMARY

The Supreme Court of Wisconsin addressed liability arising when a moving airplane being taxied and tested by an airplane repair company struck a parked airplane. The court held that the physical facts irreconcilably contradicted employee testimony that the hydraulic reservoir was full and leak-free, establishing negligence in the repair and maintenance of the aircraft as a matter of law. It reversed the judgment and remanded with directions to enter judgment for the plaintiffs based on the jury's damages finding.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Robert W. Hansen
JURISDICTION	Wisconsin
DECIDED	March 5, 1971
DOCKET	No. 94
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	After a jury verdict for the defendants, the plaintiffs moved after verdict to change the jury's answers on negligence questions and enter judgment for the damages found by the jury. The trial court denied the motion. The plaintiffs appealed.
STANDARD OF REVIEW	The court reviewed whether the jury's negative findings could stand in light of undisputed physical facts and whether the plaintiffs were entitled to a change in the jury answers and judgment notwithstanding the verdict. Under Wisconsin law, oral testimony directly and irreconcilably conflicting with irrefutably established physical facts that permit only one inference cannot sustain a verdict.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential.
PARTIES	Corning and another, copartners d/b/a Lonroc Flying Club and another v. Dec Aviation Corporation and another

TOPICS

negligence

standard of care

evidence

commercial litigation

damages

PRACTICE AREAS

Torts

Evidence

Commercial litigation

Remedies

QUESTIONS PRESENTED

1. Whether the defendant aircraft repair company could avoid liability merely by establishing that a mechanical failure caused the collision.
2. Whether the jury's negative negligence finding could be sustained when the defendants' oral testimony directly conflicted with undisputed physical facts showing that the aircraft lacked hydraulic fluid.
3. Whether the plaintiffs were entitled to a change in the jury's answers and entry of judgment for the damages found by the jury.

HOLDINGS

1. Proof that a mechanical failure caused the aircraft to veer and collide does not, by itself, establish that the defendants were free from negligence. The defendants were required to present evidence that the defect was not discoverable through reasonable inspection.
2. Oral testimony that directly and irreconcilably conflicts with irrefutably established physical facts and leaves only one possible inference cannot support a jury verdict.
3. The trial court should have granted the plaintiffs' post-verdict motion because the jury's negative answer was directly and irreconcilably contrary to the undisputed physical facts. The jury's answers to Questions 1 and 2 were therefore to be changed to affirmative answers, followed by entry of judgment for the damages found by the jury.

KEY QUOTATIONS

"Where a mechanical failure is established as the cause of the diversion, that does not in itself establish freedom from negligence." (444)

"The only reasonable inference, in fact, the only possible inference permitted by the physical facts, is that the lack of fluid and resultant collision would not have occurred but for the negligence of the defendant company in the repairing and maintenance of the hydraulic system." (448)

"Judgment reversed and cause remanded with directions to enter judgment pursuant to the opinion." (449)

FACTUAL BACKGROUND

A plane being taxied and tested by an employee of an aircraft repair company veered into a parked plane after its steering and braking systems failed. The failure resulted from the absence of hydraulic fluid, and strong wind contributed to the collision. Although company employees testified that the hydraulic reservoir had been filled and that there was no leak shortly before the accident, the undisputed physical facts established that the system was completely without fluid immediately after the collision.

PROCEDURAL HISTORY

The case arose from a moving airplane striking a parked airplane while the moving airplane was being taxied and tested by an employee of an aircraft repair company. The jury returned a negative answer to the first negligence question and did not award liability against the defendants. The trial court denied the plaintiffs' post-verdict motion, and the Wisconsin Supreme Court reversed and remanded with directions to answer Questions 1 and 2 affirmatively and enter judgment for the damages found by the jury.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment and remand with directions to answer Questions 1 and 2 of the jury verdict 'Yes' and enter judgment for the damages found by the jury.

CASES CITED

- Bunkfeldt v. Country Mut. Ins. Co., 29 Wis. 2d 179, 183-84, 138 N.W.2d 271 (1965)
- Goldenberg v. Daane, 13 Wis. 2d 98, 104, 108 N.W.2d 187 (1961)
- Voigt v. Voigt, 22 Wis. 2d 573, 584, 126 N.W.2d 543 (1964)
- Turk v. H. C. Prange Co., 18 Wis. 2d 547, 553, 119 N.W.2d 365 (1963)
- Welch v. Neisius, 35 Wis. 2d 682, 686, 151 N.W.2d 735 (1967)
- Knief v. Sargent, 40 Wis. 2d 4, 161 N.W.2d 232 (1968)
- Fehrman v. Smirl, 20 Wis. 2d 1, 21, 121 N.W.2d 255, 122 N.W.2d 439 (1963)
- Whitefish Bay v. Hardtke, 40 Wis. 2d 150, 153, 161 N.W.2d 259 (1968)
- Nieman v. American Family Mut. Ins. Co., 38 Wis. 2d 62, 67, 155 N.W.2d 809 (1968)

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