

SUPREME COURT OF PENNSYLVANIA

Salvador v. Atlantic Steel Boiler Co.

457 Pa. 24 (Pa. 1974) · Decided May 22, 1974

SUMMARY

The Supreme Court of Pennsylvania held that lack of horizontal privity no longer bars an injured employee from bringing a breach-of-warranty action against a product manufacturer. The court overruled *Hochgertel v. Canada Dry Corp.*, relying on the development of Pennsylvania products-liability law, including adoption of Restatement (Second) of Torts § 402A and abolition of vertical privity in *Kassab v. Central Soya*. The court affirmed the Superior Court's reinstatement of Salvador's complaint.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Roberts; Justice Eagen; Justice O'Brien; Justice Pomeroy; Justice Nix; Justice Manderino
JURISDICTION	Pennsylvania
DECIDED	May 22, 1974
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal by boiler manufacturers from an order reversing the trial court's dismissal of a breach-of-warranty complaint on preliminary objections in the nature of a demurrer.
STANDARD OF REVIEW	Review of the sustaining of preliminary objections in the nature of a demurrer; the court considered whether the complaint stated a legally cognizable breach-of-warranty claim despite the absence of horizontal privity.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Atlantic Steel Boiler Co., Other manufacturer appellants v. Ahmed Salvador

TOPICS

- products liability
- warranty
- breach of contract
- torts
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether lack of horizontal privity between an injured employee and a product manufacturer bars a breach-of-warranty action.
2. Whether Pennsylvania's adoption of strict products liability under Restatement (Second) of Torts § 402A requires abandonment of the horizontal-privity requirement in warranty actions.
3. Whether the trial court improperly dismissed Salvador's complaint on preliminary objections based solely on the absence of horizontal privity.

HOLDINGS

1. Lack of horizontal privity is no longer a bar to an injured party's suit for breach of warranty arising from a defective product.
2. *Hochgertel v. Canada Dry Corp.* is overruled because subsequent developments in Pennsylvania products-liability law eliminated the rationale for requiring horizontal privity.
3. The complaint should not have been dismissed on the ground that horizontal privity was lacking, and the order reinstating the complaint was affirmed.

KEY QUOTATIONS

"We conclude that the theoretical foundation which once supported horizontal privity has been undermined; we hold that lack of horizontal privity itself may no longer bar an injured party's suit for breach of warranty." (457 Pa. at 25-26)

"With Pennsylvania's adoption of Restatement 402a, the same demands of legal symmetry which once supported privity now destroy it." (457 Pa. at 32-33)

FACTUAL BACKGROUND

On May 22, 1967, a steam boiler allegedly exploded at Salvador's place of work, causing him to lose approximately 77 percent of his hearing ability. Salvador sued the boiler's employer-owner, retail seller, and manufacturers, alleging breach of warranty. He did not allege a contractual relationship with the manufacturers, who asserted that the absence of horizontal privity barred the assumpsit claim.

PROCEDURAL HISTORY

Salvador alleged that he was injured at work when a steam boiler exploded and sued his employer, the retail seller, and the boiler manufacturers. The trial court sustained the manufacturers' preliminary objections and dismissed the assumpsit complaint because Salvador did not allege a contractual relationship with the manufacturers. The Pennsylvania Superior Court reversed and reinstated the complaint. The Supreme Court of Pennsylvania granted allowance of appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Kassab v. Central Soya, 432 Pa. 217, 246 A.2d 848 (1968)
- Hochgertel v. Canada Dry Corp., 409 Pa. 610, 187 A.2d 575 (1963)
- Yentzer v. Taylor Wine Co., 414 Pa. 272, 199 A.2d 463 (1964)
- Webb v. Zern, 422 Pa. 424, 220 A.2d 853 (1966)
- Miller v. Preitz, 422 Pa. 383, 221 A.2d 320 (1966)
- Salvador v. Atlantic Steel Boiler Co., 224 Pa. Super. 377, 307 A.2d 398 (1973)
- Hoffman v. A.B. Chance Co., 346 F. Supp. 991 (M.D. Pa. 1972)
- Speed Fasteners, Inc. v. Newsom, 382 F.2d 395 (10th Cir. 1967)
- Peterson v. Lamb Rubber Co., 54 Cal. 2d 339, 353 P.2d 575, 5 Cal. Rptr. 863 (1960)
- Hart v. Goodyear Tire & Rubber Co., 214 F. Supp. 817 (N.D. Ind. 1963)
- Delta Oxygen Co. v. Scott, 238 Ark. 534, 383 S.W.2d 885 (1964)
- Hamon v. Digliani, 148 Conn. 710, 174 A.2d 294 (1961)
- Henry v. John W. Eshelman & Sons, 99 R.I. 518, 209 A.2d 46 (1965)
- Tucker v. Capitol Machine, 307 F. Supp. 291 (M.D. Pa. 1969)
- Escola v. Coca Cola Bottling Co., 24 Cal. 2d 453, 150 P.2d 436 (1944)
- Freeman v. Navarre, 47 Wash. 2d 760, 289 P.2d 1015 (1955)

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