

SUPREME COURT OF MISSISSIPPI

Wal-Mart Stores, Inc. v. Kertrena Johnson and Sabrena Johnson

807 So. 2d 382 (Miss. 2001) · No. No. 1999-CA-00557-SCT · Decided October 18, 2001

SUMMARY

The Supreme Court of Mississippi affirmed a Jefferson County Circuit Court judgment awarding damages to Kertrena and Sabrena Johnson after a vehicle serviced by Wal-Mart malfunctioned and caused an accident. The court held that venue was proper where the injuries occurred, the plaintiffs' decision to drive the vehicle was not an unforeseeable intervening cause, expert testimony was not required for this simple-negligence claim, and the jury's damages award was not excessive.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Cobb, J., for the Court; McRae, P.J.; Mills, J.; Diaz, J.; Easley, J.; Smith, J.; Pittman, C.J.; Waller, J.; Banks, P.J.
JURISDICTION	Mississippi
DECIDED	October 18, 2001
DOCKET	No. 1999-CA-00557-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wal-Mart appealed after a jury verdict for Kertrena and Sabrena Johnson in a negligence action and the Jefferson County Circuit Court denied Wal-Mart's motions for change of venue, summary judgment, directed verdict, judgment notwithstanding the verdict, new trial, and remittitur.
STANDARD OF REVIEW	For challenges to a jury verdict as against the overwhelming weight of the evidence, the Court resolves conflicts and permissible inferences in favor of the appellees and disturbs the verdict only when allowing it to stand would sanction an unconscionable injustice. For directed verdicts, peremptory instructions, and judgments notwithstanding the verdict, the Court considers the evidence in the light most favorable to the appellee and reverses and renders only when the evidence so overwhelmingly favors the appellant that reasonable jurors could not have reached a contrary verdict. The denial of a new trial is reviewed for manifest error or abuse of discretion. Damages are reviewed to

	determine whether the verdict is so excessive or inadequate as to shock the conscience and indicate bias, passion, or prejudice.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	Wal-Mart Stores, Inc. v. Kertrena Johnson, Sabrena Johnson

TOPICS

negligence venue proximate cause standard of review appellate procedure

PRACTICE AREAS

Torts Civil Procedure Appellate Procedure Remedies

QUESTIONS PRESENTED

1. Whether venue was proper in Jefferson County when the alleged negligent conduct occurred in Adams County but the plaintiffs suffered their injuries in Jefferson County.
2. Whether Kertrena's decision to drive the vehicle after learning of its malfunction was an unforeseeable intervening or superseding cause that barred recovery.
3. Whether expert testimony was required to establish that Wal-Mart's conduct caused the vehicle malfunction and accident.
4. Whether the jury's verdict was against the overwhelming weight of the evidence or resulted from bias, prejudice, or passion.
5. Whether the circuit court properly denied Wal-Mart's motions for directed verdict, judgment notwithstanding the verdict, new trial, remittitur, and certain jury instructions.
6. Whether the jury instructions fairly stated Mississippi law and were supported by the evidence.
7. Whether the damages awards were excessive.

HOLDINGS

1. Under Mississippi's venue statute, a tort action may be brought either where the tortious conduct occurred or where the plaintiff suffered actual injuries proximately caused by the negligence; therefore, Jefferson County was a permissible venue and the plaintiffs' choice of venue was properly sustained.
2. Kertrena's decision to drive the vehicle was not, as a matter of law, an unforeseeable intervening cause that cut off Wal-Mart's potential liability; any negligence by the plaintiffs was properly analyzed under comparative negligence principles.
3. Expert testimony was not required because the alleged negligence involved facts and circumstances that were readily comprehensible to a jury.
4. The circuit court properly denied Wal-Mart's motions for directed verdict, judgment notwithstanding the verdict, new trial, and remittitur because substantial evidence supported the verdict and the evidence did not require judgment for Wal-Mart as a matter of law.

5. The challenged jury instructions were proper because, read as a whole, they fairly announced the law and were supported by testimony in the record.
6. The damages awards were not so excessive as to shock the conscience or demonstrate bias, passion, or prejudice, and denial of remittitur was proper.

KEY QUOTATIONS

*“Ultimately, these cases stand for the proposition that a cause of action accrues for venue purposes either where the actual tortious conduct occurs or where the plaintiff suffers actual injuries from the negligence (as opposed to the mere manifestation of pre-existing injuries).” (*387)*

*“A proper analysis of whether the Johnsons should be denied recovery due to their own negligence must invoke comparative negligence principles rather than an intervening cause theory.” (*388)*

*“The general rule in Mississippi is that expert testimony is not required where the facts surrounding the alleged negligence are easily comprehensible to a jury.” (*388)*

*“If the facts so considered point so overwhelmingly in favor of the appellant that reasonable men could not have arrived at a contrary verdict, we are required to reverse and render.” (*390)*

FACTUAL BACKGROUND

Kertrena Johnson brought her 1993 Mitsubishi to a Wal-Mart in Natchez for fuel-injection cleaning. After the service, the vehicle exhibited high-idling and braking problems that Kertrena said had not existed before the service. Despite concerns about the vehicle's safety, Kertrena drove it to a local repair shop with Sabrena, lost control, and collided with a parked vehicle, injuring both sisters.

PROCEDURAL HISTORY

The Johnsons sued Wal-Mart in the Jefferson County Circuit Court for injuries allegedly caused by negligent automotive service performed in Natchez, Mississippi. The circuit court denied Wal-Mart's pretrial and post-trial motions. A jury returned verdicts of \$30,000 for Kertrena and \$37,500 for Sabrena, and the Supreme Court of Mississippi affirmed.

DISPOSITION

affirmed

CASES CITED

- Flight Line, Inc. v. Tanksley, 608 So. 2d 1149, 1155-57 (Miss. 1992)
- Forrest County Gen. Hosp. v. Conway, 700 So. 2d 324, 325-27 (Miss. 1997)
- Blackledge v. Scott, 530 So. 2d 1363 (Miss. 1988)
- Southland Management Co. v. Brown ex rel. Brown, 730 So. 2d 43, 46 (Miss. 1998)
- Lovett v. Bradford, 676 So. 2d 893 (Miss. 1996)
- Travis v. Stewart, 680 So. 2d 214 (Miss. 1996)

- Hammond v. Grissom, 470 So. 2d 1049, 1052 (Miss. 1985)
- Bobby Kitchens, Inc. v. Mississippi Ins. Guar. Ass'n, 560 So. 2d 129, 131 (Miss. 1989)
- Herrington v. Spell, 692 So. 2d 93, 103-04 (Miss. 1997)
- Steele v. Inn of Vicksburg, Inc., 697 So. 2d 373, 376 (Miss. 1997)
- Fielder v. Magnolia Beverage Co., 757 So. 2d 925, 929 (Miss. 1999)
- Murphy v. Burney, 27 So. 2d 773, 774 (Miss. 1946)
- Dorris v. Carr, 330 So. 2d 872, 874 (Miss. 1976)

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