

SUPREME COURT OF INDIANA

Brian S. Tincher v. Brian S. Davidson

762 N.E.2d 1221 (Ind. 2002) · No. No. 49S05-0011-CV-00719 · Decided February 19, 2002

SUMMARY

The Indiana Supreme Court held that a trial court erred by declaring a mistrial after a jury returned a general verdict accompanied by mathematically inconsistent comparative-fault calculation forms. The court concluded that the general verdict was not internally inconsistent or legally impossible and should not have been impeached by the calculation form. The case was remanded for entry of judgment for the plaintiff in the amount of \$150,000.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Dickson, Justice; Shepard, Chief Justice; Boehm, Justice; Rucker, Justice; Sullivan, Justice
JURISDICTION	Indiana
DECIDED	February 19, 2002
DOCKET	No. 49S05-0011-CV-00719
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	On petition to transfer from the Indiana Court of Appeals. The plaintiff challenged the trial court's refusal to enter judgment on the jury's general verdict and its declaration of a mistrial after inconsistencies appeared between the general verdict and comparative-fault calculation forms.
STANDARD OF REVIEW	A declaration of mistrial is generally within the trial court's discretion, but corrective action is warranted only when a verdict is inconsistent because of a logical or legal impossibility; mistrial is an extreme remedy available only when no other measure can rectify the situation.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Brian S. Tincher v. Brian S. Davidson

TOPICS

- jury instructions
- civil procedure
- appellate procedure
- standard of review
- statutory interpretation

PRACTICE AREAS

civil procedure

comparative fault

jury verdicts

appellate procedure

QUESTIONS PRESENTED

1. Whether the comparative-fault calculation form could impeach or invalidate the jury's otherwise internally consistent general verdict.
2. Whether the trial court abused its discretion by declaring a mistrial after the jury returned a general verdict accompanied by a mathematically inconsistent calculation form.
3. Whether Indiana Code section 34-51-2-13 limited the trial court to informing the jury of the inconsistency and ordering further deliberations.

HOLDINGS

1. A statutorily required comparative-fault calculation form is a procedural guide rather than a special verdict or jury interrogatory, and an otherwise internally consistent general verdict may not be impeached by a mathematically inconsistent calculation form.
2. The trial court erred in declaring a mistrial because the jury's \$150,000 general verdict was not internally inconsistent, illogical, or impossible.
3. Indiana Code section 34-51-2-13 requires trial courts to inform the jury of qualifying inconsistencies, order further deliberations, and advise that the jury may change any portion of the verdict, but it does not supersede or limit other appropriate methods of assisting the jury.

KEY QUOTATIONS

“The general verdict expressed the jurors' unanimous intent to award a judgment of \$150,000.00 to the plaintiff. The verdict itself was not internally inconsistent, illogical, or impossible.” (762 N.E.2d at 1226)

“We conclude that the trial court erred in declaring a mistrial. We remand this case to vacate the order granting a mistrial and to enter judgment on the jury's general verdict for the plaintiff in the amount of \$150,000.00.” (762 N.E.2d at 1226)

FACTUAL BACKGROUND

The jury returned a general verdict for Tinchler against Davidson for \$150,000. The accompanying comparative-fault calculation form contained mathematical inconsistencies, including figures that did not produce the stated recovery. After the trial court directed the jury to reconsider and supplied new forms, the jury again returned a \$150,000 general verdict, with Davidson assigned 100% fault, but the revised calculation form still contained a mathematical error. The trial court declared a mistrial rather than entering judgment on the general verdict.

PROCEDURAL HISTORY

The trial court declared a mistrial after the jury twice returned a \$150,000 general verdict accompanied by mathematically inconsistent comparative-fault calculation forms. The Indiana Court of Appeals affirmed. The

Indiana Supreme Court granted transfer, reversed the mistrial ruling, and remanded with instructions to enter judgment on the general verdict.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the order granting a mistrial and enter judgment on the jury's general verdict for Tinchler in the amount of \$150,000.

CASES CITED

- Tinchler v. Davidson, 731 N.E.2d 485 (Ind. Ct. App. 2000)
- State ex rel. Crawford v. Delaware Cir. Ct., 655 N.E.2d 499, 500 (Ind. 1995)
- State Highway Dep't v. Snyder, 594 N.E.2d 783, 786 (Ind. 1992)
- Buckland v. Reed, 629 N.E.2d 1241, 1244 (Ind. Ct. App. 1994)
- Bob Schwartz Ford, Inc. v. Dunham, 631 N.E.2d 953, 958 (Ind. Ct. App. 1994) (Kirsch, J., concurring)
- Mitchell v. State, 726 N.E.2d 1228, 1239 (Ind. 2000)
- Jones v. State, 689 N.E.2d 722, 724 (Ind. 1997)
- Hoskins v. State, 563 N.E.2d 571, 577 (Ind. 1990)
- Hicks v. State, 426 N.E.2d 411, 414 (Ind. 1981)
- Ward v. St. Mary Medical Center of Gary, 658 N.E.2d 893, 895 (Ind. 1995)
- Steele v. State, 672 N.E.2d 1348, 1350 (Ind. 1996)
- Meniffee v. State, 512 N.E.2d 142, 143 (Ind. 1987)
- State v. Larimore, 173 Ind. 452, 453, 90 N.E. 898, 899 (1910)
- Indianapolis Newspapers, Inc. v. Fields, 254 Ind. 219, 259 N.E.2d 651, 668 (1970)
- Kavanaugh v. State, 695 N.E.2d 629, 632 (Ind. Ct. App. 1998)

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