S T Capital Limited v Stamford Tyres International Pte Ltd
[2002] SGHC 256

Case Number : DCA 10/2002/A

Decision Date : 30 October 2002

Tribunal/Court : High Court

Coram : MPH Rubin J

Counsel Name(s) : Cheong Yuen Hee and Subbiah Pillai (Pillai & Pillai) for the plaintiffs/appellants; Suja Sashidaran and Shanthi Shanmugam (William Chai & Rama) for the defendants/respondents

Parties : S T Capital Limited — Stamford Tyres International Pte Ltd

Judgment

GROUNDS OF DECISION

1 The facts as can be gathered from the pleadings and evidence adduced at the trial below established that two trailers belonging to the plaintiffs (the appellants herein) were at the material time in the defendants' (the respondents herein) warehouse premises. In the event, there was a fire at the defendants' premises and the said trailers were damaged. The plaintiffs estimated the damages to be in the sum of $28,063.00 and claimed the said amount from the defendants on grounds that the trailers were at the premises of the defendants at the latter's invitation for the purposes of loading and unloading; the defendants were negligent; they were in breach of occupier's duty; and that the doctrine of *res ipsa loquiter* applied. The plaintiffs provided particulars of the defendants' alleged breach of occupiers' duty but oddly there were no particulars of negligence in the plaintiffs' statement of claim.

2 The defendants in their defence denied that the trailers were in their premises upon their invitation, and averred that the previous course of dealings between the plaintiffs and the defendants were such that the plaintiffs parked their vehicles within the premises of the defendants at the plaintiffs' own risks and there was no duty of care owed by the defendants to the plaintiffs.

3 As to the fire itself, the defendants averred that the fire occurred owing to no fault or negligence on their part and that they had at all times acted reasonably and taken all reasonable precautions to ensure the safety of the premises. They also denied that the doctrine of *res ipsa loquitur* applied in the situation.

4 There was no reply filed.

5 At the conclusion of the hearing, the learned district judge, after considering all the evidence, dismissed the plaintiffs' claim stating that the plaintiffs had failed to prove on balance of probabilities that the defendants were negligent in causing or permitting the fire to occur in their premises or had allowed the fire to continue unabated. He further said that there was no evidence that the defendants had failed to ensure that the plaintiffs' trailers parked at the defendants' warehouse would be reasonably safe nor was there any evidence that there was any breach of the defendants' duty as occupiers of their premises. Having highlighted the absence of particulars of negligence in the plaintiffs' statement of claim, the district judge also concluded that there was not even a *prima facie* case of negligence as would justify the application of the doctrine of *res ipsa loquitur*.

6 On appeal, the appellant's counsel contended that the district judge was in error as to his findings on the aspect of negligence and said that the plaintiffs had, on balance of probabilities established negligence on the part of the defendants. He argued that the very nature of the defendants' business warranted a conclusion that the fire was an ever present danger in the defendants' premises and that the defendants had not taken adequate safeguards to protect the property of the defendants' which were on their premises. Counsel for the appellants also criticised the approach taken by the district judge to discount the evidence of a defence witness who adopted the report of an investigation where it was stated that it was possible for the fire to have been started by a carelessly discarded smoker's materials.

7 On appeal, the plaintiffs no longer relied on the allegations that the defendants were in breach of their duty as occupiers of the warehouse nor on the doctrine of *res ipsa loquitur* (page 10 of the appellants' case).

8 There was a segment based on bailment in the appellants' case. This however, was never pleaded. The appellants' case stated that the appellants would seek to apply to court to amend the statement of claim. However nothing came to fore and the counsel for the appellants, after suggesting that the bailment here was gratuitous, confirmed that he was not making any application to amend the pleadings to include the aspect of bailment at this stage as it was manifest that one of the elements ie, 'depositum' necessary to constitute gratuitous bailment was neither pleaded nor seemed to have been proved.

9 Returning to the appeal before me, the only issue was whether the district judge was in error in relation to his finding that the plaintiffs had failed to establish negligence on the part of the defendants. It is a settled principle of law that the burden of proof in an action for damages for negligence rests primarily on the plaintiffs.

10 Having reviewed the evidence and the grounds delivered, I am of the view that the overall conclusion reached by the district judge that negligence was not proven by the plaintiffs on balance of probabilities cannot be faulted. Although the learned district judge's treatment of the fire investigation report of a person not called to give evidence could have been articulated differently, I do not see any justification or grounds to reverse his findings that the plaintiffs had failed to cross even the threshold required for the court to find in their favour. At the end of the day, after all the evidence has been tendered by the contestants, the duty of the court is to evaluate the evidence in its totality and to arrive at a finding after discarding chaff from grain. In my view, the court below was entitled to discount an unsubstantiated surmise, although it surfaced in an investigation report submitted by the defence – a document which, in any event, was not specifically admitted in evidence and was not agreed to by the plaintiffs (see para 20 of the decision of the district judge).

11 For the reasons appearing herein, I dismissed the plaintiffs' appeal with costs.

Order accordingly.

Sgd:

MPH RUBIN

Judge

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