

Wade Vs. Leroy

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Court : US Supreme Court

Decided On : 1857

Appeal No. : 61 U.S. 34

Appellant : Wade

Respondent : Leroy

Judgement :

Wade v. Leroy - 61 U.S. 34 (1857)

U.S. Supreme Court Wade v. Leroy, 61 U.S. 20 How. 34 34 (1857)

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1 U.S. (20 How.) 34

CERTIFICATE OF DIVISION BETWEEN THE JUDGES OF THE CIRCUIT COURT

OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

In an action against the owners of a ferry boat for personal injuries sustained by the negligence of its officers, it was held that the plaintiff might show that he was

engaged in a particular business, and had been incapacitated from attending to it, as exhibiting the extent of the injury, and that it had occasioned expense, suffering, and loss of time which had value to him, although the nature of his occupation was not set forth in the declaration.

The case is stated in the opinion of the Court.

Page 61 U. S. 43

MR. JUSTICE CAMPBELL delivered the opinion of the Court.

This is an action against the owners of a steam ferry boat plying between the Cities of New York and Brooklyn, for the transportation of passengers, by the plaintiff, a passenger, who suffered an injury in consequence of a collision between two boats belonging to the defendants, and which was attributable to the mismanagement of the servants and agents to whom their navigation was entrusted.

The declaration charges that the plaintiff was wounded on the head by a blow from a piece of iron that had been broken off the boat on which he was a passenger in the collision and thrown against him. That in consequence of the wound, his brain was affected and injured, so that his understanding and memory were impaired. That for some time he was insensible and his life despaired of, and before his recovery he suffered much mental and bodily pain. That he was detained in New York, at a distance from his home, and subjected to much expense about his care, support, and maintenance, and had been hindered and prevented for a long period from transacting and attending to his necessary and lawful affairs by him during all that time to be performed and transacted, and lost and was deprived of great gains, profits, and advantages which he might and otherwise would have derived and acquired.

The plea was the general issue.

Upon the trial, the plaintiff offered to prove

"that before and up to and at the time of the alleged injury, the particular business in which he was engaged was that of a distiller and manufacturer of turpentine, and that he was largely and extensively engaged in that business."

The plaintiff also offered

"to prove, by a physician who had attended the plaintiff, that when the plaintiff, after his convalescence, left New York to return to North Carolina, he plaintiff could not safely attend to any business or occupation, and that the witness deemed it imprudent and indiscreet for the plaintiff thenceforth to devote himself to any business."

To this evidence the defendants'

Page 61 U. S. 44

counsel objected on the ground that the declaration of the plaintiff did not contain any specification of such business, or of its nature or extent, or contain any statement that the plaintiff was obliged or did relinquish or abandon the same. The judges were divided in opinion as to the admissibility of such evidence, and have certified the questions for the decision of this Court.

The precise object for which this evidence was adduced is not stated in the certificate of the judges, but if the evidence tends to support any issue between the parties, or has a direct connection with other evidence competent to maintain the averments of the declaration, either to illustrate its meaning or to ascertain its probative effect, it cannot be rejected as impertinent, or as founded upon matter that does not appear in the pleadings of the cause. The evidence objected to conduces to prove that the plaintiff was seriously injured; that he had been confined in New York, at a distance from his home, and had incurred expense in consequence. That before that time he had been concerned in conducting a business that required a degree of mental and bodily vigor, and that his time was of some pecuniary value, or that he had suffered a loss of some profit, and that, after some detention in New York, he had returned to his house in an infirm condition -- so infirm that his medical attendant and adviser deemed him incapable

of pursuing any ordinary business or occupation, and had advised him to abstain from personal exertion.

This evidence would certainly assist a jury to determine that the plaintiff had sustained an injury of no slight character -- an injury to his person, and which was followed by expense, suffering, and loss of time, which had for him a pecuniary value.

These were the direct and necessary consequences of the injury, and sustained strictly and almost exclusively as an effect from it. This evidence may have an application without any inquiry into any remote or contingent consequences which could not have been foreseen, or which were peculiar to the circumstances or condition of the plaintiff. The record does not inform us that the evidence was designed to aid in such irrelevant inquiries, and we cannot presume that, if admitted, the court would allow any misconstruction of its legal import, or any use of it by the jury, contrary to law.

The opinion of the Court is that the evidence is competent, and we direct that the certificate to the circuit court shall be made accordingly.