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The Scotland

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Court : US Supreme Court

Decided On : May-10-1886

Appeal No. : 118 U.S. 507

Appellant : The Scotland

Judgement :

The Scotland - 118 U.S. 507 (1886)
U.S. Supreme Court The Scotland, 118 U.S. 507 (1886)

The Scotland

Argued March 12-13, 1885

Reargued October 20-21, 1885

Decided May 10, 1886

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APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF NEW YORK

SYLLABUS

The decision in the previous case of *The City of Norwich* repeated on the question relating to the time when the value of ship and freight is to be taken for fixing the liability of the owner and on the question of insurance.

Where a collision occurred by which the offending ship and her cargo were sunk at sea, but strippings from the ship were rescued before she went down, from which the owners afterwards realized several thousand dollars, *held* that in awarding damages against the owners limited to the amount of their interest in the ship, the court is not bound to allow interest on the proceeds of the wreck or strippings, but may, in its discretion, allow interest or not.

The circuit court is not bound to allow interest on costs awarded by the district court, although such costs are included in the decree of the circuit court.

The allowance of interest by way of damages in cases of collision and other cases of pure damage, as well as the allowance of costs, is in the discretion of the court.

The following is the case as stated by the Court:

This case presents nearly the same questions which have just been considered in the case of *The City of Norwich.* It was before this Court in October term, 1881, and was decided in March, 1882. *See The Scotland,* 105 U. S. 24 . From the report of the case, but not from the record now before us, we learn that the ship *Kate Dyer* and the steamship *Scotland* (the latter belonging to the appellee) came into collision in December, 1866, opposite Fire Island Light, and the former immediately sank and was lost. *The Scotland,* being badly injured, put back for New York, but sank outside and south of Sandy Hook, only some strippings being rescued from her before she

went down. The owners of the *Kate Dyer* and others who had suffered loss filed libels *in personam* against the National Steam Navigation Company, respondent and now appellee, who filed an answer denying that the *Scotland* was in fault and pleading that she was sunk and destroyed, and therefore that there was no liability

against the respondent. The circuit court, on appeal from the district court, found the *Scotland* in fault, and rendered a decree in favor of the libellants for the full amount of their damage, amounting, with interest, to upwards of $250,000, besides the costs of the libellants in the district court amounting to $2,173.10. This decree was reversed by this Court in March, 1882, so far as it condemned the respondent to pay the whole amount of damages sustained by the libellants and intervenors, and affirmed as to the residue, the Court in its opinion holding that the amount of the respondent's liability was the value of the ship's strippings which were saved from the wreck.

The case went back to the circuit court, but was not further prosecuted until June, 1883, when the libellants applied for leave to file a supplemental allegation to their libel for the purpose of showing that the respondent had received a large amount of insurance for the loss of the *Scotland,* which the libellants claimed should be included in the amount of the respondent's liability. The amendment was allowed without prejudice to the respondent, and with a reservation of the question as to the legality of such an amendment after the decree of this Court had been rendered and a mandate sent down. The case was then referred to ascertain the amount realized from the strippings and from the insurance of the *Scotland.* The finding of facts in the court below, based on the report of the commissioner, on evidence and on admissions of the parties, states that the amount realized from the strippings was $4,927.85, received on or before the 27th of July, 1868; that the freight for the voyage was $13,703.20, but no part of it was earned or received; that the passage money was $1,703.65, but was all absorbed in refunding part and employing the residue in transferring and reshipping the passengers; that the value of the *Scotland* before the collision was 100,000, and that

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the insurance effected on her and received by the respondent was 61,647, equal to $299,807.42. As conclusions of law, the court held that the proper amount to be paid by the respondent, as depending upon the value of the articles saved, was $4,927.85, and that the insurance received by the respondent formed no part of its interest in the steamship, to be surrendered in limitation of its liability under the

statute. A decree was thereupon made that the respondent pay into the registry of the court the sum of $4,927.85 as the value of the strippings and remnants of the *Scotland,* and the sum of $2,173.10, the costs of the libellants in the district court, and the costs in the circuit court, and that upon such payment the respondent should be discharged from all liability to the libellants and intervenors.

To the findings of fact and conclusions of law of the circuit court the libellants excepted on the following grounds, to-wit:

1. That interest should have been allowed on the sum of $4,927.85.

2. That all freight and passage money should have been added.

3. That the amount of insurance received should have been added.

4. That the libellants should have had a decree for their entire loss.

On the argument it was also claimed that interest should have been allowed on the costs of the district court ($2,173.10).

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MR. JUSTICE BRADLEY, after stating the case as above reported, delivered the opinion of the Court.

These points are all disposed of in the previous case of *The City of Norwich,* except the question of interest. Were the libellants entitled to interest on the amount received from the strippings? In answering this question, it must be borne in mind that this is not a question of debt, but of damages. The limitation of those damages to the value of the ship does not make them cease to be damages. The allowance of interest on damages is not an absolute right. Whether it ought or ought not to be allowed depends upon the circumstances of each case, and rests very much in the

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discretion of the tribunal which has to pass upon the subject, whether it be a court or a jury. The record now laid before us contains no part of the pleadings or proceedings in the cause prior to the first decree of the circuit court. We are without any means of knowing the circumstances in the pleadings or the evidence upon which the court was called upon the act, except the bare facts stated in the finding of facts before referred to. The right to a limitation of liability seems to have been denied to the respondent from the beginning. If it offered to pay the value of the strippings into court in its discharge from liability, or desired to do so, it is evident that the court would not allow it to do so, and that the libellants resisted it with all their power. The respondent was obliged to wait till the decision of this Court in March, 1882, before getting a declaration of its rights in the matter, and the first move afterwards made was the attempt of the libellants to change the whole form of the controversy by setting up the new claim to the insurance money received by the respondent. Without stopping to decide whether this amendment of the proceedings was lawfully allowed after the decision of this Court, it is sufficient to say that the circuit court, so far as we have anything before us to show to the contrary, may have had very good reasons for not allowing interest on the value of the strippings. We are not disposed to disturb its decree in this respect.

The question relating to interest on the costs requires but brief examination. Costs in admiralty as well as in equity are in the discretion of the court. Benedict's Adm. 549. Appeals in matter of costs only are not usually entertained, but when the entire case is before the appellate court, it has control of the subject of costs, as well as of the merits. *Trustees v. Greenough,* 105 U. S. 527 ; 2 Conkl.Adm.Pr. 373. In the present case, the circuit court, by its original decree, made in 1878, adjudged to the libellants their costs in the district court, amounting to $2,173.10. In March, 1882, we affirmed this part of the decree, but without interest. In affirming a decree in admiralty in this Court, if interest is not expressly allowed, it is not included. *Hemmenway v. Fisher,* 20 How.

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255. No interest on these costs therefore can be claimed up to the date of our decree. The new departure then taken by the libellants in claiming the insurance

opened the matter so as to postpone a final decree in the case in the circuit court until the decree now appealed from was made. This decree adjudges to the libellants their costs in the district court precisely in accordance with our mandate. All delay in entering the decree was caused by the libellants themselves. If any interest was allowable on the costs in question, it would only have been that accruing from the date of our decree, March 20, 1882, to the time of rendering the decree appealed from, September 22, 1884. In view of the circumstances of the litigation which took place in that period, we do not think that the decree of the circuit court is open to objection.

Decree affirmed.

MR. JUSTICE MATTHEWS, with whom concurred MR. JUSTICE MILLER, MR. JUSTICE HARLAN, and MR. JUSTICE GRAY dissented. Their dissenting opinion will be found at page 118 U. S. 526 *post,* after the opinion of the Court in *The Great Western.*

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