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Munsey Vs. Webb

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Court : US Supreme Court

Decided On : Nov-17-1913

Appeal No. : 231 U.S. 150

Appellant : Munsey

Respondent : Webb

Judgement :

Munsey v. Webb - 231 U.S. 150 (1913)
U.S. Supreme Court Munsey v. Webb, 231 U.S. 150 (1913)

Munsey v. Webb

No. 40

Argued November 4, 6, 1913

Decided November 17, 1913

231 U.S. 150

ERROR TO THE COURT OF APPEALS

OF THE DISTRICT OF COLUMBIA

SYLLABUS

Where the possibility of their occurrence is clear to the ordinarily prudent eye, one operating an elevator must guard against accidents even though they may occur in an unexpected manner. *Washington-Georgetown R. Co. v. Hickey,* 166 U. S. 521 .

Where the jury may properly find that negligence to guard against a possible, although unusual, accident in an elevator was the proximate cause of the injury, the appellate court will not reverse because the negligence was merely a passive omission.

Where there is a special source of danger in operating an elevator, this Court will not say, against the finding of a jury, that such danger need not be constantly guarded against.

37 App.D.C. 185 affirmed.

The facts, which involve questions of negligence in operating an elevator and questions of proximate cause of an injury sustained by a passenger therein, are stated in the opinion.

Page 231 U. S. 154

MR. JUSTICE HOLMES delivered the opinion of the Court.

This is an action brought against the owner of a building for causing the death of the plaintiff's intestate in an elevator in which the deceased was being carried to his place of employment. Negligent construction and negligent management of the elevator are alleged. The plaintiff had a verdict against a request by the defendant that one be directed for him, the judgment was affirmed by the court of appeals (37 App.D.C. 185), and the defendant brought the case here.

The elevator car did not quite fill the well, or shaft, and the bottom of the floor that it was approaching projected at right angles into the well about three and one-half

inches. The car was equipped with a collapsable door,

Page 231 U. S. 155

which was open at the time of the accident, and the boy in charge did not have his arm across the space as he had been instructed to do. Between the fourth and fifth floors, the deceased fell, and his head was caught between the projecting bottom of the fifth floor and the floor of the car, and was crushed. The negligence relied upon is the leaving of the door open and failure to guard the space, the not having a flange or piece of metal inclining from the projecting floor to the shaft wall, and the failure to use an emergency switch, the quickest means of stopping the car, the boy in charge not having been instructed in the use of it.

The plaintiff in error argued at some length that there was no negligence, because the fall of deceased was something wholly out of the ordinary course, and not to be foreseen, or that, if there was negligence in any sense, it was not the proximate cause of the death, but merely a passive condition made harmful by the fall. Neither argument can be maintained. It is true that it was not to be anticipated specifically that a man should drop from internal causes into the open door of the car. But the possibility and the danger that, in some way, one in the car should get some part of his person outside the car while it was in motion was obvious, and was shown to have been anticipated by the door's being there. In some circumstances, at least, it was a danger that ought to be and was guarded against. It is said that the danger was manifest only when the car was crowded, and that the door was needed only for that. If the duty to have the car shut on all sides had been created with reference only to conditions different in kind from those of the accident, it may be that the plaintiff could not avail himself of a requirement imposed *alio intuitu. Eugene F. Moran,* 212 U. S. 466 , 212 U. S. 476 . But the accident was similar in kind to those against which the door was provided, and we are not prepared to say, contrary to the finding of the jury, that

Page 231 U. S. 156

the duty to keep it shut or to guard the space with the arm did not exist in favor of all travelers in an elevator having the structure that we have described. It was not necessary that the defendant should have had notice of the particular method in which an accident would occur if the possibility of an accident was clear to the ordinarily prudent eye. *Washington & Georgetown R. Co. v. Hickey,* 166 U. S. 521 , 166 U. S. 526 -527.

If there was negligence, it very properly could be found to have been the proximate cause of the death. *See Milwaukee & St. Paul Ry. Co. v. Kellogg,* 94 U. S. 469 . Even if it were true that the neglect was merely a passive omission, the deceased was invited into the elevator, and the principle of the trap cases would apply. *Corby v. Hill,* 4 C.B. (N.S.) 556, 563; *Sweeny v. Old Colony & Newport R. Co.,* 10 Allen, 368, 374. But that is not the case. The defendant is sued for having crushed the head of the deceased by forces that he put in motion. He replies that it would not have happened but for the unforeseen fall of the deceased without the defendant's fault, and to this the plaintiff rejoins and the jury has found that the defendant was bound to take the easy precaution which he had provided against any and all ways by which a passenger's body could get outside the car while it was going up. *Hayes v. Michigan Central R. Co.,* 111 U. S. 228 , 111 U. S. 241 ; *Choctaw, Oklahoma & Gulf R. Co. v. Holloway,* 191 U. S. 334 , 191 U. S. 339 . The whole question comes down to whether we are prepared to say as matter of law, against the finding of the jury, that, in an elevator constructed as this was, with a special source of danger in the shaft outside the car, to require the defendant to guard the door space *in transitu* at his peril is too strict a rule. We cannot go so far. *McDonald v. Toledo Consol. S. Ry. Co.,* 74 F. 104, 109.

There was, perhaps, evidence sufficient to warrant a finding that there was negligence in not stopping the car

Page 231 U. S. 157

after the fall and before the harm was done, and a finding on that ground would not open the questions that have been discussed; but we have preferred to deal with the case on the matters principally argued, as they seem to offer the most

obvious reasons for the verdict, and therefore have assumed that the jury found the facts and standard of conduct to be as we have supposed.

Judgment affirmed.

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