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**Buzynski Vs. Luckenbach Steamship Co., Inc.**

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**Court :** US Supreme Court

**Decided On :** May-14-1928

**Appeal No. :** 277 U.S. 226

**Appellant :** Buzynski

**Respondent :** Luckenbach Steamship Co., Inc.

**Judgement :**

Buzynski v. Luckenbach Steamship Co., Inc. - 277 U.S. 226 (1928)

U.S. Supreme Court Buzynski v. Luckenbach Steamship Co., Inc., 277 U.S. 226 (1928)

**Buzynski v. Luckenbach Steamship Company, Incorporated**

**No. 534**

**Argued March 19, 1928**

**Decided May 14, 1928**

**277 U.S. 226**

*CERTIORARI TO THE CIRCUIT COURT OF APPEALS*

*FOR THE FIFTH CIRCUIT*

## SYLLABUS

1. Section 33 of the Merchant Marine Act incorporated into the maritime law in favor of injured "seamen" the applicable provisions of the Employers' Liability Act and its amendments, and these may be enforced either in suits in admiralty or actions at law. P. [277 U. S. 228](#) .

2. A stevedore engaged in stowing cargo upon a vessel is a "seaman" within the meaning of that section, and, under applicable provisions of the Liability Act, may recover from the stevedoring company employing him for an injury caused by the negligence of a fellow servant. *Id.*

3. Where the circuit court of appeals erroneously reverses a judgment upon one question without deciding another upon which its correctness also depends, the case may be reversed for the error and remanded to that court for decision of the other question. *Id.*

19 F.2d 871 reversed.

Certiorari, [275 U. S. 518](#) , to a judgment of the Circuit Court of Appeals, which reversed a judgment of the district court on a libel in admiralty for personal injuries.

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MR. JUSTICE SANFORD delivered the opinion of the Court.

The petitioner, Karl Buzynski, brought a libel *in personam* in admiralty in the Federal District Court for Southern Texas against the Luckenbach Steamship Company, the owner of the Steamship *Edgar F. Luckenbach*, and the Texas Contracting Company, to recover damages for personal injuries suffered by him while working as a stevedore for the Contracting Company, an independent contractor engaged in loading cargo on the steamship while at dock in the port of Galveston. He was awarded a judgment against the two companies jointly. 12 F.2d 92. This was reversed by the circuit court of appeals. 19 F.2d 871.

Shortly after Buzynski had started to work, and while he was removing a cover from one of the hatches on the ship, he was struck and severely injured, without fault on his part, by a chain which fell from the end of the boom of a derrick at this hatch, which was used in loading the cargo. The accident was caused by the starting in motion, in a manner not shown by direct evidence, of a winch belonging to the ship which connected with and controlled the movement of the boom. The winchman who operated the winch was an employee of the Contracting Company and a fellow servant of Buzynski.

The district court was of opinion that the accident resulted from a defect in the winch for which both companies were responsible. The circuit court of appeals was of opinion that the evidence showed no defect in the

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winch for which either of the Companies was liable, and that, although there was evidence from which it might reasonably be inferred that the accident was caused by negligence of the winchman or of another stevedore, nevertheless the Contracting Company would not be liable for the negligence of such fellow servant.

We granted this writ of certiorari on account of this ruling of the circuit court of appeals as to the negligence of a fellow servant, and no other question need be considered here.

It is settled by this Court that 33 of the Merchant Marine Act, 1920, [ [Footnote 1](#) ] incorporated into the maritime law in favor of injured "seamen" the applicable provisions of the Employers' Liability Act [ [Footnote 2](#) ] and its amendments, and that these may be enforced either in suits in admiralty or actions at law. *Panama R. Co. v. Johnson*, [264 U. S. 375](#) , [264 U. S. 388](#) ; *Engel v. Davenport*, [271 U. S. 33](#) , [271 U. S. 35](#) ; *Panama R. Co. v. Vasquez*, [271 U. S. 557](#) , [271 U. S. 560](#) ; *Baltimore S.S. Co. v. Phillips*, [274 U. S. 316](#) , [274 U. S. 324](#) ; *Messel v. Foundation Co.*, [274 U. S. 427](#) , [274 U. S. 434](#) . And in *Internat'l Stevedoring Co. v. Haverty*, [272 U. S. 50](#) , [272 U. S. 52](#) , we held that the word "seamen," as

used in 33, included a stevedore engaged in the maritime work of stowing cargo upon a vessel, and that, under the applicable provisions of the Employers' Liability Act, he could recover from the stevedoring company for an injury caused by the negligence of a fellow servant.

The view of the circuit court of appeals that the Contracting Company would not be liable for the negligence of a fellow servant was erroneous, and its judgment must be reversed. But since, it did not determine whether the accident was in fact due to such negligence, or to some other cause, the case will be remanded to that court with

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instructions to determine this question and take further proceedings in conformity with this opinion. See *Cole v. Ralph*, [252 U. S. 286](#) , [252 U. S. 290](#) ; *Gerdes v. Lustgarten*, [266 U. S. 321](#) , [266 U. S. 327](#) .

*Reversed and remanded.*

[ [Footnote 1](#) ]

41 Stat. 988, c. 250.

[ [Footnote 2](#) ]

35 Stat. 65, c. 149.