

Ward v Tesco Stores Ltd [1976]

Evidence

The claimant got injuries as he slipped on yogurt. It was spilled in the shop that belonged to the respondent. The respondent insisted that there was a strict sanitation policy in their shop. According to it, cleaning staff were responsible to ensure the floors in the supermarket were clean. Additionally, they had to wash spillages in case any of them were found.

Despite this, the owner of the supermarket did not present the evidence that could confirm when exactly they checked and washed the floor the last time. Consequently, the claimant applied to the Court and accused the defendant of carelessness.

Problematics

In case the claimant wanted to accuse the respondent of being careless, he had to present evidence that could confirm the respondent violated the duty of care. It is necessary for the claimant to demonstrate that the respondent had failed to behave in the way a rational person would act in the same circumstances.

If the defendant can not present the facts that will explain the exact reason for the accident, the Court can qualify the case as carelessness and a break of duty under the following conditions:

- 1) If the respondent remained fully responsible for the situation.
- 2) If the incident can not be qualified as one that took place only because of carelessness.

This is the main idea of the tenet of *res ipsa loquitur*.

The main question of this case was to state whether the evidence was solid enough to prove if the incident could be qualified as one that took place only because of carelessness.

Resolution

The Court of Appeal claimed that this case could be qualified as a case for *res ipsa loquitur*. The second of the two above-mentioned conditions is referred to when the incident that takes place is not usual and when it can be explained by carelessness rather than by any other reason.

In this particular case, the respondent was in charge of the premises. Though it was not known how long the spillage was on the floor, it could be assumed that it could be washed away before the incident had happened. Consequently, the incident could be treated as

one that would take place only because of carelessness. The respondent was liable to prove that the spillage had not been on the floor of the shop for a long time.

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