

AUSTRALIA / JUDGMENT

Redwin v Norris [2015] NSWSC 787

Source: caselaw.nsw.gov.au · Research copy typeset by Esheria. Not court-issued or certified.

Supreme Court New South Wales

Medium Neutral Citation: Redwin v Norris [2015] NSWSC 787 Hearing dates: 18 June 2015 Date of orders: 18 June 2015 Decision date: 18 June 2015 Jurisdiction: Common Law Before: Campbell J Decision: Orders in accordance with Short Minutes of Orders Catchwords: PROCEDURE – civil – interlocutory issues – application for determination of separate quantum issues Legislation Cited: Uniform Civil Procedure Rules 2005 (NSW); Civil Liability Act 2002 (NSW) Category: Procedural and other rulings Parties: Allan Redwin (Plaintiff) Peggy Audrey Norris (Defendant) Representation: Counsel: L Goodchild (Plaintiff) J Catsanos (Defendant)

Solicitors: Elizabeth Fleming & Associates (plaintiff) DLA Piper (defendant) File Number(s): 2010/290540

EX TeMPORE Judgment (REVISED)

1. The parties are jointly asking the Court to make an order under r 28.2 Uniform Civil Procedure Rules 2005 (NSW), for a separate trial.
2. The issue or question they want separately determined is the issue of the quantum, or measure of damages payable if the defendants are liable or legally responsible to the plaintiff in the circumstances in which he suffered injury on 19 May 2009.
3. From the pleadings and from what counsel have said this morning, it is obvious that there is a very significant issue about liability. The defendants are sued more or less in their capacity as occupiers of a grazing property, or perhaps it may be more accurate to say, a property used for grazing, and the plaintiff's case in negligence is that measures should have been taken, including fencing, to keep cattle off the means of access and egress between a cottage on the property and its boundary. The plaintiff's case is that riding his motorcycle in the dark, he collided with one of the defendant's cattle on that access way.
4. The defendant denies that the plaintiff's accident occurred in those circumstances but accepts that he was involved in a fall from his motorcycle, which caused serious personal injury in the nature of an incomplete tetraplegia.
5. The liability issues are likely to be fact sensitive even if they involve questions of law, and will go to the nature, scope and content of the duty of care owed to lawful entrants by the occupiers of a rural property used for grazing purposes.

6. Moreover, as I have said, there will be a strong issue apparently about the primary facts of the case and naturally if the plaintiff establishes that the injuries were received in the circumstances he alleges, there will be issues about breach in accordance with s 5B Civil Liability Act 2002 (NSW).
7. Given the serious nature of the plaintiff's injuries, two things are relatively obvious. One is that if there is contest about damages, it is likely to be lengthy and to involve multiple experts from various medical and paramedical disciplines. The second thing is that if the plaintiff is successful in establishing legal responsibility in the defendants, that being the hot issue between the parties, there is a high degree of likelihood that the case can be settled, even if only after an appeal.
8. The court generally speaking is against the idea of fragmentation of litigation unless there are clear advantages to the court and to the parties in terms of time and money, basically. And it seems to me that given the complexity of the liability issues and the complexity of the damage issues, and I might say, given the degree of difficulty that the plaintiff may face in establishing liability, that there is much to be said of the idea that there should be a separate hearing of those liability issues before the parties are put to the time expense of finally preparing the damages issues for hearing. I am not suggesting I have formed any view about the strength of the plaintiff's case, it is simply that it is a complex case and therefore will present a degree of difficulty to the party carrying the onus of proof. For those reasons, I am prepared to accede to the orders proposed by both parties.
9. The nature of the order in this case for a separate hearing will be in the form proposed by the parties that the issue of the quantum of the plaintiff's loss be determined separately from and after any trial on the other issues in the case.
10. I make orders in accordance with the short minutes of order handed up by counsel and initialled by me, dated today and placed with the papers.
11. I amend order seven, by adding the matter at "9 am before the Common Law Registrar".

Amendments 25 June 2015 - Cover sheet - Parties amended DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment or decision. The onus remains on any person using material in the judgment or decision to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court or Tribunal in which it was generated. Decision last updated: 25 June 2015

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.caselaw.nsw.gov.au/decision/55824b99e4b0f1d031de9a16>

CASE PAGE <https://chat.esheria.ai/case-law/australia/redwin-v-norris-2015-nswsc-787-2015>

Prepared on 27 October 2026 · Esheria