FRIDAY, JUNE 24, 2011

U.S. Supreme Court Rules that Carrier Negligence Does Not Incorporate Proximate Cause Standard

In *CSX TRANSPORTATION, INC. v. MCBRIDE*, 22 Fla. L. Weekly Fed. S1197a (Jun. 23, 2011), the U.S. Supreme Court has held that the Federal Employers' Liability Act, which the Jones Act incorporates, does not incorporate "proximate cause" standards developed in nonstatutory common-law tort actions. The Court also held that it is not error in FELA cases to refuse a jury instruction charge embracing stock proximate cause terminology and that the proper jury charge in FELA cases simply tracks language Congress employed, informing juries that a defendant railroad caused or contributed to a railroad employee's injury if railroad's negligence played any part in bringing about the injury.

In summary, Respondent McBride, a locomotive engineer with petitioner CSX Transportation, Inc., an interstate railroad, sustained a debilitating hand injury while switching railroad cars. He filed suit under the Federal Employers' Liability Act (FELA), which holds railroads liable for employees' injuries "resulting in whole or in part from [carrier] negligence." 45 U.S.C. §51. McBride alleged that CSX negligently (1) required him to use unsafe switching equipment and (2) failed to train him to operate that equipment. A verdict for McBride would be in order, the District Court instructed, if the jury found that CSX's negligence "caused or contributed to" his injury. The court declined CSX's request for additional charges requiring McBride to "show that . . . [CSX's] negligence was a proximate cause of the injury" and defining "proximate cause" as "any cause which, in natural or probable sequence, produced the injury complained of." Instead, relying on *Rogers* v. *Missouri Pacific R. Co.,* 352 U.S. 500, the court gave the Seventh Circuit's pattern FELA instruction: "Defendant 'caused or contributed to' Plaintiffs injury if Defendant's negligence played a part -- no matter how small -- in bringing about the injury." The jury returned a verdict for McBride. On appeal, CSX renewed its objection to the failure to instruct on proximate cause, now defining the phrase to require a "direct relation between the injury asserted and the injurious conduct alleged." The appeals court, however, approved the District Court's instruction and affirmed its judgment for McBride. Because *Rogers* had relaxed the proximate cause requirement in FELA cases, the court said, an instruction that simply paraphrased *Rogers'* language could not be declared erroneous. *Held*:The judgment is affirmed.

While this is a railroad case, the Jones Act incorporates FELA by reference. *See Miller v. American Dredging Co*., 510 U.S. 443 (1994). Thus, judicial interpretations of FELA also apply to Jones Act cases. This case makes it crystal clear that attempts to argue the doctrine of proximate cause should apply in seaman's cases will be rejected by any court asked to consider the issue.

Should you wish a copy of the complete decision, please feel free to contact me at miamipandi@comcast.net, motero@houckanderson.com or via LinkedIn at http://www.linkedin.com/in/michelleoterovaldes.