Argumentative essay about case brief

Business

Membreno, the plaintiff in this case hailed from Honduras. He entered into a work contract with the company Costa Crociere SPA or Costa, the defendant. He worked as an oiler on the ship on a contract with Cruise Ships Catering & Service International, N. V., (CSCS), a Netherlands Antilles company. The on – land office of the company was in Curacao, Netherlands Antilles. Costa is an Italian corporation whose headquarters are in Genoa, Italy. It is a wholly owned subsidiary of Carnival Corporation, Panama, whose business is in Miami, Florida. It had no offices and staff in the United States. The plaintiff Membreno was on a brief work contract with CSCS to work on the ship Costa Atlantica.

During the cruise, Membreno received a severe injury to his wrist while performing his duties. At that time the ship was on high seas in international waters and was sailing under the Italian flag. The Plaintiff reported to the on duty supervisor and ship'sdoctorwith regard to his injury. However, no medical treatment was offered to the plaintiff. Upon the completion of his contract, Membreno disembarked from the ship and went to Honduras where a surgeon diagnosed his wrist with Kinnock's disease and recommended surgical treatment. Membreno sought and obtained a second opinion from a Miami orthopedic surgeon who performed surgery on the plaintiff's wrist. In addition, the plaintiff also underwent physical therapy.

Procedural History:

Subsequently Membreno filed a petition in the district court on the basis of the Jones Act and general maritime law and claimed compensation for his injury. The defendants Costa and CSCS resorted to the doctrine of forum non

conveniens to have the petition dismissed. The district court taking into consideration this doctrine dismissed the case. After this Membreno filed an appeal petition in the Eleventh Circuit Court.

Issues legal question:

The issues to be addressed in this case were : first, whether a suit can be filed in the US courts inrespectof a cause of action that had arisen in a place that was external to its territorial waters , secondly, whether the Jones Act and the General Maritime Laws could be applied in this particular case. Thirdly, whether a claim could be dismissed on the grounds of forum non conveniens.

Broad holding:

The Jones Act and the General Maritime Laws will be applicable if the cause of action arises within the Territorial waters of the US. A claim cannot be made at a place where a subsidiary company is situated.

Narrow holding:

The court rejected the contention of the plaintiff stating that the injury had been inflicted on the High Seas. The company in Florida was a subsidiary to the main company.

Doctrinal Reasoning:

In Szumlicz v. Norwegian Am. Line, Inc. it was held that the a claim should be dismissed on the grounds of forum non conveniens in cases where   the United States law was not applicable (Szumlicz v Norwegian Am. Line, Inc,

1983). The Supreme Court framed eight conditions in Lauritzen v. Larsen, which should be taken into consideration .

They are: the place of the unlawful act, the national flag of the vessel, the residence of the injured party, the ship owner's residential location, the place of the contract, the accessibility of a foreign court, the law of the court, and finally, the place of business of the ship owner. Six conditions out of these were not fulfilled, hence the defendant plead that US law was not applicable to the plaintiff. The important contention as to whether the defendant had been conducting his main business from the United States was proved in the negative (Lauritzen v. Larsen, 1953).

Policy Reasoning:

The Eleventh Circuit Court upheld the decision of the district court.

Miscellaneous:

There were no dissenting opinions as the judgement was unanimous.

References

Lauritzen v. Larsen, 345 U. S. 571 (1953).

Szumlicz v Norwegian Am. Line, Inc, 698F. 2d 1192 (11th Circuit Court 1983).