

Law case study

Business



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Free Case Study on Law:

1. Explain the main principles of the doctrine of judicial precedent, using appropriate examples from the case as illustration.

Judicial precedent is a part of the common law, which is present primarily in the Anglophone countries and is an indispensable part of it. Judicial precedent means that in order to remain fair and just one needs to apply the same penalty for the same/similar situations. Precedent thus, means the past practice of dealing with the given type of offence, which in common law would be applied to the same or similar situations. In the case of *Willaims-v-roffey brothers & Nicholls* the precedent was used to determine whether or not the plaintiff breached the sub-contract and whether or not subcontractors were to pay additional sum of money. The situation noted that the sum of the contract originally was too low and unprofitable for the plaintiff yet in oral agreement the contractors agreed to pay additional sum after job was fully completed.

The plaintiff finished only a portion of the job and achieved what was said to be a reasonable completion rather than fully finished the flats. At the same time, some of the services provided by the plaintiff were found to be defective, plus the plaintiff ceased the work and thus according to the contractors breached the contract and caused damages to the contractors. The contractors appealed to the decision of *Stilk v Myrick* (1809) 2 Camp 317, 170 ER 1168 which basically meant that at some point of time the seamen were promised some extra pay (when 2 seamen deserted and the rest had to do their job) yet after the ship safely reached the port the pay

was refused. The defendants thus believed that although the plaintiff was promised the extra “bonus” he should be refused it. By the same token the contractors pressed the court to consider the situation with the plaintiff who apparently deserted the contractors because of some financial difficulties. The plaintiff stated that the financial situation made the plaintiff request additional funds as promised by the contractors if the contract was to be carried out.

Apparently, the funds were not paid in the first place and that caused the plaintiff to quit and create extra losses for the contractors let alone fail to remodel the apartments to the degree as requested by the contractors. 3. Give examples of the following from the case, with explanation as appropriate: *a. A case, which is binding on the court.* Since the court in Great Britain is based on the common law and sophisticated system of precedents the cases brought up by defendants/contractors.

The use of two cases such as *Stilk v Myrick* (1809) 2 Camp 317, 170 ER 1168 and *North Ocean Shipping Co Ltd v Hyundai Construction Co Ltd, The Atlantic Baron* [1978] 3 All ER 1170, [1979] QB 705 Mocatta J. The plaintiff stated that the contract was signed with the contractors yet apparently did not include all the terms, some of which were implied and some of which were spoken. The contractors, on the other hand, appear to value only the signed portion of the contract, which certainly gives them an advantage over the plaintiff. The contract defined the responsibility of the plaintiff, the penalty clause and other terms. The contract appears not to be profitable for the plaintiff, yet plaintiff agreed upon the contract and that actually gave the contractors an opportunity to act, as they desired in terms of payment. The absence of

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various documents and failure to include various conditions and clauses in the contract to benefit the plaintiff is what give the court the reason to dismiss the claim. Read the attached case of *Dunnachie -v- Kingston-upon-Hull City Council* [2004] 3 WLR 310 (Annex B) and answer the following questions: 1.

Explain the purposive approach to statutory interpretation, using illustrations from the case where appropriate (max. 500 word). The case of *Dunnachie vs. Kingston Upon Hull city council* 3 WLR 310 Annex B noted that *Dunnachie* was unfairly dismissed from work and he would then demand some compensation for the mental damages trying to prove that it was a loss to him. The employer on the other hand appealed to the court stating that ‘loss’ can be identified only as a financial or material loss and there can be no loss related to feelings or emotions. Should that loss exist it would never be fairly assessed and estimated.

Nevertheless, the statutory interpretations were made to benefit the claim of *Dunnachie* in the following ways as expressed in the case:

1. Compensatory award is awarded based on what the tribunal considers just and equitable. In interpretation it means that should tribunal consider the non-physical loss as just and equitable it would mean that the employer would be required to pay the compensation to *Dunnachie*.
2. Loss is interpreted as any expenses reasonably occurred by the complainant. “ Any” means that more than just physical expenses, yet

possibly the opportunity costs associated with the person's loss of motivation, disgruntlement etc.

3. The case study speaks about Dunnachie who had experienced some health problems that were likely to be caused by stress and emotional breakdown associated with the unfair dismissal.

2. Identify two aids to interpretation used by the court in this case. The first aid used in interpretation of the case takes roots in “ The ultimate genesis of s 123(1) of the 1996 Act was s 116(1) of the Industrial Relations Act 1971”. As the case study noted “ for present purposes the re-enactment of s 116 by para 19 of Sch 1 to the Trade Union and Labor Relations Act 1974, by s 76 of the Employment Protection Act 1975 and by s 74 of the Employment Protection (Consolidation) Act 1978 are not material”. Therefore, it appears that Dunnachie is entitled to receive a proper compensation for his unfair dismissal by the employer. The amount of compensation is determined by the tribunal.

The second aid used to interpret the case by the court was the “ Norton Tool Co Ltd v Tewson [1973] 1 All ER 183, [1972] ICR 501” which noted that “ compensation could be awarded for injury to feelings” which was precisely the situation of Dunnachie. Once it was understood that compensation can be given to things other than physical damages and loss, one can say that actually the situation was already resolved and Dunnachie won the case. 3. From Lord Steyn's opinion identify statements which could suggest he was taking: *a. The literal approach to interpretation* The literal approach to interpretation proposed by Lord Steyn was the statement that employees are entitled to compensation for the existing losses and that the tribunal is the

one to determine the proper compensation for the losses and moral damages incurred by the employee like Dunnachie.

4. Was the observation of Lord Hoffman in Johnson- Unisys Ltd (2003) (see para 5 on p314 B/C) binding or persuasive on the court in this case? Explain your answer. It appears that Lord Hoffman’s observation was more persuasive than binding on the court in this very case. First of all Hoffmann makes an appeal to the other lords participating in the decision making process. Lord Hoffmann also noted that the current employment rights act of 1996 provided only limited remedy for the complained conduct. He proceeded that it certainly would be an “ improper exercise” for the House to take steps that would involve tribunals and restrict remedy in application and extent.