

Bolton and Others v Stone [1951] AC 850

Chapter 4 (page 169)

Relevant facts

Stone lived in a house adjacent to the Cheetham Cricket Ground. On 9 August 1947, a batsman playing in a match at the Cricket Ground hit the ball out of the ground. The ball hit Stone while she was standing outside her house. The hit was exceptional and it was only very rarely that a ball was hit over the fence during a match: according to the evidence, it had only happened 5 or 6 times in 37 years. The Committee and Members of the Cheetham Cricket Club ('CCC') were aware of the occasions on which it had occurred. No-one had previously been struck by a cricket ball that was hit out of the ground, and the street in which Stone lived was not the subject of heavy traffic.

Stone sued the Committee and Members of the CCC seeking to recover damages for the injuries she sustained when hit by the cricket ball. She alleged that her injuries were caused by their negligence in not taking steps to avoid the danger of a ball being hit out of the ground, such as moving the wickets a few steps further away from her road or heightening the fence.

At first instance, the trial Judge held the Committee and Members of the CCC were not liable in negligence because they had not breached their duty of care to Stone. This decision was overturned on appeal to the Court of Appeal. The CCC appealed to the House of Lords.

Legal issue

Had the Committee and Members of the CCC breached their duty of care to Stone by failing to do what a reasonable person would do in circumstances where they know that it is conceivably possible that someone could be struck by a ball that is hit out of the ground?

Decision

On 10 May 1951, the House of Lords unanimously overturned the decision of the Court of Appeal and decided that the judgement of the trial Judge should be restored. All 5 Lords held that it was foreseeable that a person on the adjacent road could be struck by a ball hit out of the ground. However, they also concluded that it was not unwarranted for the trial judge to conclude that the Committee and Members of the CCC did not breach their duty of care to Stone because reasonableness did not require precautions to be taken against the very small risk that someone would be struck by a ball hit out of the ground.

According to Lord Porter:

It is not enough that the event should be such as can reasonably be foreseen; the further result that injury is likely to follow must also be such as a reasonable man would contemplate, before he can be convicted of actionable negligence. Nor if the remote possibility of injury occurring enough; there must be sufficient probability to lead a reasonable man to anticipate it. The existence of some risk is an ordinary incident of life, even when all due care has been, as it must be, taken.

According to Lord Normand:

It is not the law that precautions must be taken against every peril that can be foreseen by the timorous.

According to Lord Reid:

In my judgment the test to be applied here is whether the risk of damage to a person on the road was so small that a reasonable man in the position of the Appellants, considering the matter from the point of view of safety, would have thought it right to refrain from taking steps to prevent the danger ... I would have reached a different conclusion if I had thought that the risk her had been other than extremely small, because I do not think that a reasonable man considering the matter from the point of view of safety would or should disregard any risk unless it is extremely small.

Some of the Lords were of the view that the precautions of moving the wickets a few steps further away from her road or heightening the fence would have had little or no effect in averting the danger. However, others were of the view that what precautions might be taken was irrelevant.

Significance

The decision is authority for the proposition that a person is not required to take precautions against every foreseeable risk. They are only required to take precautions against risks that are reasonably likely to happen. They are not required to eliminate all risk.