



Press Summary

23 October 2024

Tindall and another (Appellants) v Chief Constable of Thames Valley Police (Respondent)

[2024] UKSC 33

On appeal from [2022] EWCA Civ 25

Justices: Lord Hodge, Lord Briggs, Lord Leggatt, Lord Burrows and Lady Simler

Background to the Appeal

The law on the tort (that is the civil wrong) of negligence draws a fundamental distinction between liability for acts and omissions or, put another way, between making matters worse and failing to confer a benefit. In general, subject to exceptions, there is no duty of care, and hence no liability in negligence, for failing to confer a benefit, which includes failing to protect a person from injury, as opposed to making matters worse. The issues in this tragic case raise in an acute form where the boundary lies between making matters worse and failing to protect a person from injury.

The following facts were assumed to be true for the purpose of this appeal. At approximately 4.30am on 4 March 2014, Martin Kendall skidded on a patch of black ice on the A413 road. He lost control of his car which rolled into a ditch. He called the emergency services and the police came to the scene as did an ambulance. Mr Kendall was taken to hospital. The police removed the debris of the accident from the road and then left having removed the “police slow” sign that they had put up. They did not do anything about the black ice.

Approximately 20 minutes later, Carl Bird lost control of his car on the same area of black ice and skidded into a head-on collision with a car driven by Malcolm Tindall. As a result, both Mr Tindall and Mr Bird were killed.

The widow of Mr Tindall, Valerie Tindall, has brought a claim against the Chief Constable of Thames Valley Police, alleging that the police are liable in the tort of negligence for her husband’s death. The police have applied to have her claim struck out as disclosing no valid claim in law or alternatively for summary judgment on the ground that her claim has no real prospect of success. The police failed in those applications before the first instance judge but succeeded in the Court of Appeal. Mrs Tindall now appeals to the Supreme Court.

Judgment

The Supreme Court unanimously dismisses her appeal. On the assumed facts, the police intervention did not give rise to any possible liability for making matters worse, and none of the possible exceptions to the general rule that there is no duty of care to protect a person from injury could be made out. The reasons for the decision are given in a joint judgment by Lord Leggatt and Lord Burrows, with whom the other Justices agree.

Reasons for the Judgment

Lord Leggatt and Lord Burrows begin by clarifying that liability in the tort of negligence can generally arise only if a person acts in a way which makes another worse off as a result, not where a person fails to confer a benefit on another. The same principles apply to public authorities, including the police. Although the police have statutory powers and duties to protect the public from harm, a failure to do so, does not (of itself) make the police liable in the tort of negligence to pay compensation to an injured person unless, applying the same principles, a private individual would have been so liable. [20] – [44]

Counsel for Mrs Tindall put forward two arguments. First, they argued that the police were liable for making matters worse. Mr Kendall, after his accident, had been warning other drivers of the danger of the black ice, by trying to flag them down, and would have continued to do so had the police not arrived. In an important development, the Supreme Court accepts for the first time that there can be liability under what has been labelled the “interference” principle. According to this, there can be liability in the tort of negligence where a person intervenes provided that that person knows or ought reasonably to have known (i.e. it must be reasonably foreseeable) that the intervention might have the effect of stopping another person’s warning or rescue attempts. [48] – [58]

However, in this case, the police did not know, nor ought they to have known, about Mr Kendall’s efforts to alert other road users. From their perspective, he was a victim and was not seeking to protect others. It was not reasonably foreseeable to the police that their actions would cause Mr Kendall to cease his attempts at alerting other road users to the danger of the ice. This was a fatal factual lacuna in Mrs Tindall’s case on liability for making matter worse. [59] – [70]

The second argument put forward by counsel for Mrs Tindall was that one of the exceptions to the general rule of no liability for failure to protect another from injury applied here. The exceptions urged upon the court were assumption of responsibility, control and status. But none of these exceptions could be made out on the assumed facts. There was no assumption of responsibility by the police to other drivers to protect them from the black ice danger [74] – [77]; the police did not have control of the patch of black ice which was the source of danger [78] – [84]; and no duty of care could arise simply on the basis of the status of the police as professional emergency responders. [85] – [87]

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)