Michigan Law Review

Volume 50 | Issue 1

1951

ADMIRALTY-CONFLICT OF LAWS-ERIE R. R. CO. V. TOMPKINS DISTINGUISHED IN MARITIME MATTERS

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RECENT DECISIONS

ADMIRALTY — CONFLICT OF LAWS — ERIE R. R. Co. v. TOMPKINS DISTINGUISHED IN MARITIME MATTERS—Plaintiff, a resident of Massachusetts, brought suit in the law side of the federal district court in Massachusetts for injuries sustained as a passenger aboard defendant's ship while it was docked in Sweden. Defendant, a Swedish corporation, defended on the ground that a contract stipulation as expressed on the back of plaintiff's ticket relieved it of liability. The ticket had been purchased in Sweden. The lower court, citing only American authorities, held that the effect of the contract provision was to relieve defendant. On appeal, *held,* remanded. The cause of action asserted is a maritime tort; hence the substantive law to be applied is the general maritime law as finally determined by the federal courts, including the federal conflict of laws rule, which requires that the effect of the contract provision be determined by Swedish law. *Jansson v. Swedish American Line,* (1st Cir. 1950) 185 F. (2d) 212.

The principal case is held not to fall within the rule of *Erie R. R. Co. v. Tompkins,*[1] whereby a federal court exercising diversity jurisdiction must follow state substantive law. While there is no doubt that conflict of laws questions generally fall within the *Erie* rule,[2] the court excepts cases covered by general maritime law, as dealing with questions arising under the Constitution and laws of the United States and reviewable by the Supreme Court. The diversity of citizenship present between the parties is held not to be a prerequisite for jurisdiction in a federal court in actions at law. The case then stands as a further development defining the limits of *Southern Pacific Company v. Jensen*[3] and *Chelentis v. Luckenbach S.S. Co.,*[4] whereby there was established a uniform maritime law which could not be diversified by state action. Once the matter is determined to be within uniform maritime coverage, the court's holding that federal rather than state law should apply seems correct,[5] although there have been recent cases holding that a maritime subject matter is not in

[1] 304 U.S. 64, 58 S.Ct. 817 (1938).

[2] Klaxon Co. v. Stentor Electric Mfg. Co., 313 U.S. 487, 61 S. Ct. 1020 (1941).

[3] 244 U.S. 205, 37 S.Ct. 524 (1917). See also Knickerbocker Ice Co. v. Stewart, 253 U.S. 149, 40 S.Ct. 438 (1920).

[4] 247 U.S. 372, 38 S.Ct. 501 (1918).

[5] Seas Shipping Co. v. Sieracki, 328 U.S. 85, 66 S.Ct. 872 (1946)) (federal law court must follow general maritime law in remedy for unseaworthiness).

itself sufficient to grant jurisdiction in a federal court in actions at law.[6] It is analogous to other areas of federally created rights and obligations where federal "common law" has remained.[7] As stated by Justice Black, the purpose of the *Erie* case was not to bring within the governance of state law matters so vitally affecting relations of the Federal Government as to require uniform national disposition.[8] It is noted that the *Erie* rule is in effect not circumvented, as state courts must also follow the federal rule in this area.[9] State law may supplement maritime law outside this area, the state action not being hostile to the "characteristic features of the maritime law or inconsistent with federal legislation,"[10] which will be recognized in a federal court in actions at law[11] as well as in admiralty.[12] (Of course, an admiralty court is not obligated by the *Erie* rule, not being a court of diversity jurisdiction.[13]) As established by precedent, the permissive area of local variation is principally confined to state death[14] and survival statutes[15] relating to deaths within jurisdictional waters, and insurance[16] and workmen's compensation[17] schemes covering maritime workers engaged in local activity.[18] The court would appear correct in including in uniform coverage conflict of laws rules, for such by their very nature substantively affect other

[6] McDonald v. Cape Cod Trawling Corp., (D.C. Mass. 1947) 71 F. Supp. 888; Erlich v. Wilhelmsen, (D.C. N.Y. 1942) 44 F. Supp. 414; Stamp v. Union Stevedoring Corp., (D.C. Pa. 1925) 11 F. (2d) 172.

[7] See Clearfield Trust Co. v. United States, 318 U.S. 363, 63 S.Ct. 573 (1943) (determining rights under commercial paper issued by the United States); Deitrick v. Greaney, 309 U.S. 190, 60 S.Ct. 480 (1940) (rights under federal statute); United States v. Standard Oil Co. of California, 332 U.S. 301, 67 S.Ct. 1604 (1947) (tortious claim of the United States).

[8] See United States v. Standard Oil Co. of California, supra note 7.

[9] Garrett v. Moore-McCormack Co., 317 U.S. 239, 63 S.Ct. 246 (1942) (suit in state court for maintenance and cure).

[10] Just v. Chambers, 312 U.S. 383, 388, 61 S.Ct. 687 (1941) (state survival statute upheld).

[11] See Cannella v. Lykes Bros. S.S. Co., (2d Cir. 1949) 174 F. (2d) 794. In a federal law action, Judge Hand applies the general maritime law of unseaworthiness remedy, taking note that it is the same law which a New York state court would apply.

[12] Just v. Chambers, supra note 10; Western Fuel Co. v. Garcia, 257 U.S. 233, 42 S.Ct. 89 (1921) (state wrongful death statute).

[13] See Justice Jackson's concurring opinion in D'Oench, Duhme & Co. v. Federal Deposit Ins. Corp., 315 U.S. 447 at 465, 62 S.Ct. 676 (1942).

[14] Old Dominion Steamship Co. v. Gilmore, 207 U.S. 398, 28 S.Ct. 133 (1907). Compare Puleo v. Moss & Co., (2d Cir. 1947) 159 F. (2d) 842, cert. den. 331 U.S. 847, 67 S.Ct. 1733 (1947) (admiralty court held state law to be referred to in determining validity of claim under state death statute) and Riley v. Agwilines, Inc., 296 N.Y. 402, 73 N.E. (2d) 718 (1947) (wrongful death statute applied, but general maritime law referred to in determining liability).

[15] Just v. Chambers, supra note 10.

[16] Standard Dredging Corp. v. Murphy, 319 U.S. 306, 63 S.Ct. 1067 (1943).

[17] Davis v. Dept. of Labor and Industries of Washington, 317 U.S. 249, 63 S.Ct. 225 (1942).

[18] For a discussion of the muddied area in determining how far a state may cover maritime workers with state compensation, see Dickinson and Andrews, "A Decade of Admiralty in the Supreme Court of the United States," 36 CALIF. L. REV. 169 at 176 et seq. (1948).

than purely local matters.[19] There would be little trouble but for recent unfortunate decisions and dicta by the Supreme Court. First, it has been suggested that the whole concept of uniformity in general maritime law is restricted to workmen's compensation matters,[20] which has produced further decisions suggesting that admiralty courts should follow local state law otherwise.[21] Yet these cases on their facts relate to matters occurring within the state jurisdiction, while the broad concept of uniformity has subsequently been reaffirmed.[22] Secondly, in *Caldarola v. Eckert*,[23] the Supreme Court held that a state court could preclude a remedy for a maritime tort occurring within its waters, although admittedly cognizable in admiralty. It would thus appear that the uniformity demanded in an admiralty court need not extend to a state law court. It could be concluded therefore that federal courts formerly bound to follow general maritime law in actions at law would now be free to follow local state variations even in matters uniformly treated in an admiralty court, by an application of the *Erie* rule. The principal case rejects any such conclusions. The concept of a broad area of uniformity is relied upon, binding upon both admiralty, and federal and state law courts.[24] By pointing out, however, that a court hearing a maritime question within this area need not rest on diversity jurisdiction, thus not being within the *Erie* rule, it indicates that even should a state court be allowed variation, a federal court in an action at law should follow the general law.

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[19] Regarding the question of whether the admiralty rule of comparative negligence or the common law rule allowing contributory negligence as a bar should apply in a suit at law on a maritime cause of action, federal cases have applied the common law rule. See Johnson v. United States Shipping Board Emergency Fleet Corp., (2d Cir. 1928) 24 F. (2d) 963, reversed on other grounds, 280 U.S. 320, 50 S.Ct. 118 (1930); United States v. Norfolk-Berkley Bridge Corp., (D.C. Va. 1928) 29 F. (2d) 115. But see Intagliata v. Shipowners & Merchants Towboat Co., 26 Cal. (2d) 365, 159 P. (2d) 1 (1945), where the admiralty rule is applied. The court reasons that Garrett v. Moore-McCormack Co., supra note 9, requires uniform treatment in law and admiralty.

[20] See Standard Dredging Corp. v. Murphy, supra note 16.

[21] See Guerrini v. United States, (2d Cir. 1948) 167 F. (2d) 352, cert. den. 335 U.S. 843, 69 S.Ct. 65 (1948). Here an admiralty court looked to New York law to determine the duty owned by shipowner to a subcontractor injured while working on New York waters. See also The Big Chief, (D.C. Mo. 1949) 82 F. Supp. 268.

[22] See Cannella v. Lykes Bros. S.S. Co., supra note 11.

[23] 332 U.S. 155, 67 S.Ct. 1569 (1947).

[24] The court recognizes that a Massachusetts state court would follow the general maritime law. Thorneal v. Cape Pond Ice Co., 321 Mass. 528, 74 N.E. (2d) 5 (1947).