

BRITISH COLUMBIA ADMIRALTY DISTRICT

BETWEEN:

1960
March 31
Apr. 1
Apr. 6

THE STATES STEAMSHIP COMPANY .. PLAINTIFF;

AND

THE SHIP *ELISABETH BAKKE* DEFENDANT.

Shipping—Negligence of vessel in moving out of her berth—Damage caused to ship “at home”—Judgment for plaintiff.

Held: That defendant vessel was negligent through improper manoeuvring on her part when moving out of her berth, thereby causing a wash which resulted in damage to plaintiff’s vessel in the cost of replacement of mooring lines, dock repairs and other items, for which plaintiff is entitled to recover.

ACTION to recover damages caused through negligence of defendant ship.

The action was heard before the Honourable Mr. Justice Sidney Smith, District Judge in Admiralty, for the British Columbia Admiralty District, at Vancouver.

Vernon R. Hill for plaintiff.

C. C. I. Merritt for defendant.

The facts and questions of law raised are stated in the reasons for judgment.

SIDNEY SMITH D.J.A. now (April 6, 1960) delivered the following judgment:

On May 20, 1958, the plaintiff's steamship *California* was made fast alongside Berth 1 C of the Pacific Coast Terminals' wharf, New Westminster, her port side being to the wharf. Astern of her and also with her port side to the wharf was the motor vessel *Elisabeth Bakke*. The *Elisabeth Bakke* in moving out of her berth, caused a wash which resulted in the *California* breaking away from the wharf. Although the two vessels did not collide, the *California* suffered loss in the cost of replacement of mooring lines, dock repairs, and so forth. The plaintiff claims damages accordingly.

As I pointed out in the *Salvage Princess*¹:

On the day of the occurrence the plaintiff ship may be regarded as being "at home", and entitled to assume she was in a place of safety, (*The City of Seattle* (1903) 9 Ex. Cr. R. 146 at p. 149).

I hold that the *California* was properly made fast alongside by no less than eight sufficient mooring lines, and hold any evidence to the contrary unconvincing. The damage was therefore solely caused by improper manoeuvring on the part of the defendant vessel. This may have been due to her excessive speed in close quarters, or failing to make allowance for the current, or perhaps to insufficient power in the tug that was being used at the time, or a combination of all three. A somewhat comparable case is that of the *S.S. Roman Prince*². I am of opinion that due care in the circumstances was not taken by those on board the *Elisabeth Bakke*.

I therefore hold for the plaintiff with costs and direct a reference to the Registrar on damages if necessary.

Judgment accordingly.

¹ [1949] Ex. C.R. 230, 231.

² [1924] Ex. C.R. 93.