



20 April 2016

PRESS SUMMARY

The Mayor's Office for Policing and Crime (Appellant) v Mitsui Sumitomo Insurance Co (Europe) Ltd and others (Respondents) [2016] UKSC 18
On appeal from [2014] EWCA Civ 682

JUSTICES: Lord Neuberger (President), Lord Clarke, Lord Hughes, Lord Toulson and Lord Hodge

BACKGROUND TO THE APPEAL

London suffered from serious rioting from 6 to 9 August 2011. In one incident at 11:40pm on 8 August 2011, a gang of youths broke into the Sony DADC distribution warehouse at the business park on Solar Way in Enfield. They stole goods from the warehouse and threw petrol bombs, starting a fire which destroyed the warehouse and the stock, plant and equipment within. The insurers of Sony DADC (which were the lessees of the warehouse), the insurers of the freehold owner of the warehouse, and companies (which were customers of Sony DADC and whose uninsured stock in the warehouse had been destroyed) made claims for compensation from the appellant, the Mayor's Office for Policing and Crime ("the MOPC") under s.2 of the Riot (Damages) Act 1886 ("the 1886 Act"). The MOPC contested those claims on both its liability to pay compensation and the quantification of loss. The High Court and the Court of Appeal decided that the MOPC was liable and that finding is no longer in issue.

The remaining issue before the Supreme Court is the quantification of the claims, which raises a question of statutory construction: whether persons who suffer loss when rioters destroy their property can in principle obtain compensation for consequential losses, including loss of profits and loss of rent, under s.2 of the 1886 Act. The High Court held that s.2 provided compensation only for physical damage and not for consequential losses, but the Court of Appeal reversed that decision, holding that s.2 provided a right to compensation for all heads of loss, including consequential loss, proximately caused by physical damage to property for which the trespassing rioter is liable at common law.

JUDGMENT

The Supreme Court unanimously allows the MOPC's appeal. Lord Hodge gives the lead judgment, with which the other Justices agree.

REASONS FOR THE JUDGMENT

The wording of the 1886 Act by itself does not provide a clear-cut answer to the issue. In particular, s.2(1) does not clarify whether the "loss" for which a claimant may claim compensation is simply the physical damage to his property, or extends to consequential losses [14-15, 17]. The 1886 Act does not expressly provide compensation for either (a) personal injury caused by rioters, or (b) damage to property in the streets (e.g. a parked car) and there is no jurisprudence to support the view that such losses could be claimed. On any view, therefore, the Act provides only partial compensation for damage caused by rioters [16].

Legislative history

The 1886 Act must be construed in the light of the prior legislative history [13]. Parliament first provided for compensation for riot damage in the Riot Act 1714 (“the 1714 Act”). Section 6 provided that when rioters had demolished certain buildings, the inhabitants of the “hundred” (an historical administrative subdivision of a county or shire) were liable to pay “damages” to the injured party [18-19]. The 1714 Act did not specify the scope of the “damages” to be paid by the hundred, so guidance was provided by the courts, which extended the right to compensation for loss occasioned to furniture and household goods [20-23].

However, this case law does not support a general principle that the hundred stood as sureties for the wrongdoer [24]. This is because:

- (1) While the 1714 Act imposed on the hundred the obligation to compensate only for loss occasioned by the destruction of, or damage to, buildings, the prior laws governing the hundred’s liability for a failure to raise hue and cry imposed no such restriction [25].
- (2) While under the 1714 Act the hundred incurred strict liability for the riot, the prior hue and cry legislation allowed the community to escape liability if hue and cry were raised and the offenders caught: the hundred were not sureties for the offender unless they failed to apprehend him [26].
- (3) Most importantly, the legislative history after the 1714 Act shows there was no broad principle of compensation. In particular, the wording of the Remedies against the Hundred (England) Act 1827 (which amended and consolidated the prior legislation and remained in force until the 1886 Act) makes it clear that the statutory compensation was confined to physical damage to property [27-30]. The 1886 Act made certain changes to the statutory scheme, including transferring the liability to pay compensation from the hundred to the local police authority, and directing the police authority to have regard to the claimant’s conduct when deciding what compensation was due. None of these changes suggest an intention to extend the measure of compensation beyond physical damage to property [31-32].

When regard is had to the words of the 1886 Act in the context of its legislative history, there is no reason to think that Parliament ever intended that the statutory compensation scheme should mirror the rioters’ liability in tort, or should develop as the law of damages for tort developed [33]. The Act, like its predecessors, sets out a self-contained statutory compensation scheme which does not extend to cover consequential losses [34].

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:

<http://supremecourt.uk/decided-cases/index.html>