



3 August 2016

PRESS SUMMARY

Moreno (Respondent) v The Motor Insurers' Bureau (Appellant)
[2016] UKSC 52
On appeal from [2015] EWHC 1002 (QB)

JUSTICES: Lord Mance, Lord Clarke, Lord Sumption, Lord Toulson, Lord Hodge

BACKGROUND TO THE APPEAL

Ms Moreno is a UK resident. In May 2011, whilst on holiday in Greece, she was hit by a car. The car was registered in Greece and driven by an uninsured driver. It is not disputed that the driver was responsible for the accident. Ms Moreno suffered very serious injuries.

Ms Moreno has claimed damages from the UK Motor Insurers' Bureau ("UKMIB"), pursuant to a series of Council Directives (collectively, the "Directives"), culminating in a Sixth Directive 2009/103/EC (the "Sixth Directive"). The Directives are transposed into English law by The Motor Vehicles (Compulsory Insurance) (Information Centre and Compensation Body) Regulations 2003 (SI 2003 No 37) ("the 2003 Regulations").

The purpose of the arrangements introduced by the Directives and the 2003 Regulations is to ensure that compensation is available for victims of motor accidents occurring anywhere in the European Union and to facilitate their recovery of such compensation. They establish a scheme whereby, amongst other things, victims of a motor accident which occurs in one member state can in certain circumstances claim compensation directly from a body in their own member state of residence. The UKMIB is the designated body in the United Kingdom against which such claims can be made.

The operation of the relevant part of the Directives was conditional on the conclusion of a subsequent agreement between compensation bodies and guarantee funds (the "Agreement"), which was reached in April 2002.

The preliminary issue the subject of this appeal is whether the scope of Ms Moreno's claim to damages is to be determined in accordance with English or Greek law. Her concern is that Greek law would yield a lesser measure of compensation than English law.

At first instance, Gilbert J considered that he was bound by previous Court of Appeal authority (*Jacobs v Motor Insurers' Bureau* [2010] EWCA Civ 1208) to hold that the damages are to be determined by English law. Gilbert J granted a "leapfrog" certificate under section 12 of the Administration of Justice Act 1969, which allows for cases to move directly from the High Court to the Supreme Court with its permission, which was granted in July 2015.

JUDGMENT

The Supreme Court unanimously allows the appeal by the Motor Insurers' Bureau. Lord Mance gives the lead judgment with which the other Justices agree.

REASONS FOR THE JUDGMENT

The 2003 Regulations should, so far as possible, be interpreted in a sense which is not in any way inconsistent with the Directives: *Marleasing v La Comercial Internacional de Alimentación* (Case C-106/89) [26]. There is no suggestion in the 2003 Regulations or elsewhere, that the domestic legislator intended to do anything other than faithfully implement and give effect to the Directives [28].

Two questions are central to this appeal. The first is whether the Directives prescribe any particular approach to the scope or measure of recovery applicable in a claim against a compensation body under article 7 of the Fourth Directive (article 25(1) of the Sixth Directive). The second is if they do, whether the language of Regulation 13(2)(b) of the 2003 Regulations reflects this approach, or mandates some different approach, whatever the Directives may have required [29].

As to the first question, viewed as a whole, the Directives were and are a scheme of which the constant aim has been to improve the prospects and ease with which injured parties can recover the compensation to which they are “entitled” in respect of any loss or damage caused by vehicles [6-30]. The inference is that the victim of a motor accident is entitled to the same compensation, whether against the driver responsible, his or her insurer, or, that failing, against the motor insurance bureau of the State of the accident or indeed the compensation body established in the victim’s state of residence [31].

Clauses 7.2 and 8.2 of the Agreement provided that the compensation body in the victim’s country of residence was to “apply, in evaluating liability and assessing compensation, the law of the country in which the accident occurred”. The Agreement needs to be viewed as part of the wider scheme, which in turn needs to be construed as a consistent whole [33].

The Directives do not leave it to individual member states to provide for compensation in accordance with any law that such states may choose. On the contrary, they proceed on the basis that a victim’s entitlement to compensation will be measured on a consistent basis, by reference to the law of the state of the accident, whichever of the routes to recovery provided by the Directives he or she invokes. In consequence, it also makes no difference which route is chosen to the measure of liability of the body or person ultimately responsible. Since the position as a matter of European Union law is clear, there is no need for a reference to the Court of Justice [35-39].

As to the second question, the 2003 Regulations were consistent with the scheme of the Directives [40-41]. The loss and damage recoverable from the UKMIB is said in Regulation 12(4)(b) to be that “properly recoverable in consequence of that accident by the injured party from [the insured] person under the laws applying in that part of the United Kingdom in which the injured party resided at the date of the accident”. The most obvious purpose of this is to determine which of the United Kingdom’s three legal systems should apply, rather than prescribing the measure of recovery in such proceedings [42]. The decisions in *Jacobs v Motor Insurers’ Bureau* [2010] EWCA Civ 1208; [2011] 1 WLR 2609 and *Bloy v Motor Insurers’ Bureau* [2013] EWCA Civ 1543, [2014] 1 Lloyd’s Rep IR 75 should be over-ruled in relation to the meaning of regulation 13(2)(b) [43].

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>