

QUEBEC ADMIRALTY DISTRICT

BETWEEN:

N. M. PATERSON & SONS LIMITED, PLAINTIFF;

AND

CANADIAN VICKERS LIMITED, DEFENDANT.

1959
May 14
May 20

Shipping—Interest payable under a judgment dates from date judgment is rendered unless otherwise ordered—Discretion of Court to vary date.

In an action for damages judgment was delivered in favour of the plaintiff on March 19, 1959, in the sum of \$2,810.83 with interest and costs. The sum of \$2,810.83 represented repair bills paid by the plaintiff in the month of May 1953. Plaintiff now moves for an order fixing the date from which interest is payable as the date or dates on which the various repair bills were paid.

¹[1948] 2 All E.R. 379.

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Held: That the judgment carries interest from the date of the judgment or from such other date as the judge or judgment directs.

MOTION to fix date from which interest is payable under a judgment.

The motion was heard before the Honourable Mr. Justice A. I. Smith, District Judge in Admiralty for the Quebec Admiralty District, at Montreal.

Léon Lalande, Q.C. for the motion.

Alex K. Paterson contra.

SMITH D. J. A. now (May 20, 1959) delivered the following judgment:

The plaintiff moves "for an order fixing the date or dates from which interest is payable" under a judgment rendered by this Court on March 19, 1959, in this case which is an action for the recovery of damages arising out of a fire which occurred on the plaintiff's vessel while it was in the defendant's drydock undergoing repairs.

The defendant was "condemned to pay to the plaintiff the sum of \$2,810.83 with interest and costs."

In support of its motion it was argued on behalf of the plaintiff that the judgment requires clarification having regard to the difference of opinion which exists between the parties as to the meaning of the judgment insofar as the condemnation to pay interest is concerned, it being the plaintiff's submission that interest runs from the date or dates upon which the plaintiff paid the various repair bills, while the defendant contends that interest is payable only from the date of the judgment.

The general rule is that all judgments under which money is payable in Admiralty matters carry interest from the date of the judgment or from such other date as the judge or judgment directs.

Williams & Bruce Admiralty Jurisdiction and Practice 3rd Edition, page 488: "By the operation of the 76th Section of the Judicature Act 1873 the 1-2 Victoria, Chapter 110, now applies to all divisions of the High Court of Justice, and all judgments under which money is payable in Admiralty actions without exception carry interest at the

rate of 4% per annum from the date of the judgment or from such other day as is directed by the order of the Court or of a judge".

Roscoe Admiralty Practice, page 344: *The Jones Brothers*¹.

In the present case, the Court in awarding damages condemned the defendant to pay interest thereon without exercising the discretion which it undoubtedly had to depart from the general rule and the effect of the judgment is clearly to obligate the defendant to the payment of interest only from the date of the judgment, and such was the intention of the Court.

I was referred by counsel for the plaintiff to various authorities supporting the view that in damage actions of this nature it is usual to award interest in respect of repair bills from the date of the payment of same and it may well be that the circumstances of the present case justified a departure from the general rule and that the failure of the Court to exercise its discretion in favour of the plaintiff amounted to an error, if so the plaintiff's remedy is by way of appeal.

To grant the present motion and hold the defendant condemned to the payment of interest calculated from the date or dates upon which the repair bills were respectively paid (in the month of May 1953) would be to render a judgment substantially different from that given on March 19, 1959; something I am without jurisdiction to do. (*Halsbury Laws Of England*, 2nd Edit. Vol. 19, page 262).

I am therefore forced to conclude that the plaintiff's motion is unfounded and same is dismissed, with costs.

Order accordingly.

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