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FOIL Update 22nd February 2024



Case Spotlight – Armstead v RSA

Armstead v RSA [2024] UKSC 6: Summary and Key Points

The case of *Armstead v Royal and Sun Alliance Insurance Company Limited* involved a dispute where Ms. Lorna Armstead hired a car from Helphire Limited and was involved in an accident caused by the negligent driving of a third party insured by Royal & Sun Alliance Insurance Company Ltd (RSA). The accident resulted in damage to the hired car, for which Ms. Armstead paid for repairs. Subsequently, Helphire requested that Ms. Armstead pay £1,560 for the loss of use of the hired car while it was being repaired. Ms. Armstead brought a claim against RSA for both the repair costs and the sum requested by Helphire.

The key issue in the case was whether Ms. Armstead could recover the £1,560 sum for the loss of use of the hired car from RSA, the negligent driver's insurer.

The Supreme Court's decision, handed down on 14th February 2024, allowed Ms. Armstead's appeal, finding that she was entitled to recover the sum for the loss of use of the hired car from RSA. The Court's decision focused on the issue of remoteness of damages in tort and emphasized that the sum would be recoverable if it represented a reasonable pre-estimate of Helphire's loss of use.

The case of *Armstead v Royal and Sun Alliance Insurance Company Limited*, as decided by the UK Supreme Court, focused on the issue of remoteness of damages in tort. The court departed from the findings of the lower courts and found that a specific sum would be recoverable if it represented a reasonable pre-estimate of loss. The court's decision

emphasized the need for evidence to support any reduction in the sum sought. The implications of the decision are significant for cases involving the limitation of damages in tort and the requirement for evidence to support any adjustments to the claimed damages.

Crucially the claimant's rental agreement stipulated that she pay both for damages and loss of use if the car was unavailable. Ms. Armstead sued the at-fault driver's insurer (RSA) to recover the loss of use charge.

The Key Issues

1. Can a negligence claimant recover a contractual liability (loss of use charge) arising from property damage (rented car)?

2. One pivotal issue in the case of *Armstead v RSA*, addressed in paragraphs 46-47, concerned the recoverability of damages when losses don't align with a reasonable pre-estimate.

While the majority accepted the claimant's concession on this principle, Lord Briggs offered a slightly different perspective. He emphasised the potential unfairness of rigidly applying this rule in all situations, suggesting room for flexibility depending on the specific circumstances.

3. However, the truly impactful aspect of the Judgement revolved around the burden of proof regarding the reasonableness of a contractual clause. Paragraph 59 decisively placed this responsibility on the defendant's shoulders. The implication that when a third-party insurance company challenges a credit hire company's loss recovery claims, the onus falls on them/ **the defendant** to prove **and plead** that the relevant clause in the hire agreement does not represent a reasonable pre-estimate of loss.

This decision has significant implications for both credit hire companies and insurers, shifting the power dynamic considerably in favour of the former.

Conclusions

1. Yes, the contractual liability is recoverable. The Supreme Court unanimously ruled that Ms. Armstead could recover the loss of use charge from RSA. This is because:

- The loss wasn't "**pure economic loss**" (normally unrecoverable in negligence). Ms. Armstead had a possessory interest in the car, making the loss connected to physical damage.

- The contractual liability arose directly from the defendant's negligence (causing car damage).

2. Reasonableness of the loss of use charge wasn't relevant. The Court focused on the causal link between the negligence and the liability, not the specific amount in the contract.

Overall, this case clarified that negligence claimants can recover contractual liabilities incurred due to the defendant's damage to their property, even if those liabilities arise from specific contractual terms (like loss of use charges).

Additionally, it should be noted that the case involved a relatively small sum of damages (£1,560), but its implications are much broader, potentially affecting many similar situations and some wig which could be for significant sums of money.

The decision raises further questions about potential limitations on recovering contractual liabilities in negligence cases.

Armstead v Royal and Sun Alliance Insurance Company

<https://www.supremecourt.uk/cases/uksc-2022-0100>.

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