



Supreme Court Reaffirms “Featherweight” Standard of Causation in FELA and Jones Act Personal Injury & Death Claims

On June 23, 2011, in a 5-4 decision, a sharply divided Supreme Court reaffirmed the application of the “featherweight” standard of causation in Federal Employers’ Liability Act (FELA) cases. Because the FELA is the underlying statutory structure of the Jones Act for purposes of recovery for death and personal injury cases, this standard will continue to apply to seamen’s negligence claims.

In last week’s decision, [*CSX Transportation, Inc. v. McBride*](#), the Supreme Court upheld the “featherweight” standard, which provides that a railroad is liable for employee injuries resulting from the negligence “however slight” of the carrier. Under this standard, if negligence by the carrier is proved, and that negligence is shown to have played even the slightest part in producing the injury, the carrier is liable for damages whether or not the injury was probable or foreseeable. That the injury may be attributable to other causes is not relevant. Furthermore, the employee’s own contributory negligence is of no matter under the “featherweight” standard.

The “featherweight” standard is not difficult to satisfy, unlike the more stringent common-law tort standard of proximate causation that the four dissenting justices sought to enforce. Under proximate causation, the plaintiff must demonstrate that the defendant’s negligence was a direct cause of the injury, and that the injury was a foreseeable and substantial result of that negligence. The majority, authored by Justice Ginsburg, held that the common-law tort standard does not apply to FELA cases and affirmed the “featherweight” standard that has been previously used in FELA and Jones Act cases involving an employer’s negligence.

Because the standard of causation under FELA also applies to Jones Act cases, the “featherweight” standard will continue to apply in cases where a seamen seeks recovery for his employer’s negligence. Consequently, the Supreme Court’s decision is merely a reinforcement of the challenging standard of causation that maritime employers were held to before the *CSX Transportation, Inc. v. McBride* Supreme Court decision.



Conclusion

Maritime practitioners are well-advised to ensure that the jury is instructed that despite the “featherweight standard” of causation, the plaintiff must still prove negligence just as he must in any tort case. There is no “relaxed” standard of negligence. Once that negligence is proven, then the jury moves on to consider whether that negligence caused the injury complained of. Further, practitioners must also continue to ensure the trial court instructs the jury that the seaman’s unseaworthiness claim is subject to the traditional “proximate cause” standard. That is, once an unseaworthy condition is proven, the jury must consider whether is played “a substantial part in bringing about or actually causing [the] injury, and that the injury was either a direct result or a reasonably probably consequence of the condition.”¹

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¹ 5th Circuit Pattern Jury Instruction 4.6



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