



Supreme Court of New Zealand

30 October 2009

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Ports of Auckland Limited v Southpac Trucks Limited
(SC 18/2009 [2009] NZSC 112)

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

Southpac Trucks Limited was the owner of a Kenworth truck which was damaged on the wharf at Auckland after being discharged from a ship. The accident was caused by the negligence of an employee of Ports of Auckland Ltd (POAL) who was engaged on unrelated business at the time. The truck was in the possession of Wallace Investments Ltd which had been subcontracted by POAL to move it from the ship to a storage area.

In the Court of Appeal, by majority, Southpac succeeded in its damages claim against POAL for the cost of repairing the truck of approximately \$60,000. In this case which began in a District Court, the Courts below have differed over whether in circumstances in which POAL did not have physical possession of

the truck, it nevertheless has the protection of the Carriage of Goods Act 1979 which limits the liability of a carrier for loss of or damage to goods being carried by it.

The Supreme Court has allowed POAL's appeal. It has held unanimously that POAL was acting as a carrier, as widely defined in the Act, because it procured Wallace to carry out stevedoring services in relation to the truck. POAL therefore had the protection of the Act which expressly excludes the bringing of a common law claim. The Court has found that, on the wording of the Act, the protection for a carrier applies regardless of the fact that damage to the goods carried was caused by an unrelated activity of an employee of the carrier at a time when they were in the physical possession of another party to the carriage.

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