



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

3 October 2022

MEDIA RELEASE

ROPER v TAYLOR AND ANOTHER

(SC 16/2022)

ATTORNEY GENERAL v TAYLOR AND ANOTHER

(SC 23/2022)

Hearing in the Supreme Court [Wednesday 5 October– Thursday 6 October]

CASE HISTORY SYNOPSIS

This synopsis is provided to assist in understanding the history of the case and the issues to be heard by the Court. It does not represent the views of the panel that will hear the appeal in the Supreme Court. The synopsis does not comprise part of the reasons for the judgment of the Court of Appeal. A direct link to the judgment is included at the end of this synopsis.

Suppression

Please note that the High Court order prohibiting the publication of the name, address or identifying particulars of the witness identified in [13], [64] and [65] of the judgment in *M v Roper* [2018] NZHC 2330 remains in force.

Background

In July 1985 Ms Taylor enlisted in the Royal New Zealand Air Force. She held the rank of aircraftsman and worked as a driver in the Motor Transport section at Whenuapai. In 2018 she brought proceedings in the High Court alleging that between 1985 and 1988 her then superior officer, Mr Roper, had sexually assaulted and falsely imprisoned her and that this had caused her mental injury. She sought damages from Mr Roper for assault, intentional infliction of emotional distress and false imprisonment. She also sought damages from the Royal New Zealand Airforce on the basis that it was vicariously liable for Mr Roper's actions and that it had been negligent.

The High Court held that Ms Taylor had been assaulted and falsely imprisoned and that this had resulted in mental injury but that Ms Taylor was barred from pursuing her claims under



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s 317 of the Accident Compensation Act 2001. This section provides that no person may bring proceedings for damages arising directly or indirectly out of personal injury covered by that Act or any former Acts relating to the accident compensation scheme. The High Court did not find it necessary to decide whether the grounds of intentional infliction of emotional distress and negligence were made out, nor whether the Airforce could be vicariously liable in the circumstances.

Ms Taylor appealed to the Court of Appeal which held that the claims related to assault, the intentional infliction of mental distress and negligence would be barred by s 317 of the Accident Compensation Act. However, the Court held that this did not apply to false imprisonment. The Court of Appeal therefore held that Ms Taylor could pursue compensatory damages if the false imprisonment was a substantial cause of her mental injury, notwithstanding that the injury was also contributed to by other causes covered under the accident compensation scheme. The Court of Appeal also held that s 21 B of the Accident Compensation Act did not apply. This provides that a person has cover for a personal work-related injury if the mental injury is a direct outcome of a single event that could reasonably be expected to cause mental injury to people generally. The case was remitted back to the High Court to assess the damages and to determine whether the Airforce had vicarious liability.

Leave application

Mr Roper applied for leave to appeal against the decision of the Court of Appeal. The Attorney General, representing the Royal New Zealand Airforce, also applied for leave to appeal. Ms Taylor applied for leave to cross appeal the Court of Appeal's finding that causes of action in assault, intentional infliction of mental distress and negligence were barred because of the Accident Compensation scheme.

This Appeal

The Supreme Court granted all three applications for leave to appeal and cross appeal against the Court of Appeal decision. The key issue to be determined is the correct interpretation of ss 21B and 317 the Accident Compensation Act and whether, in this context, they prevent Ms Taylor from seeking compensatory damages from Mr Roper and the Royal New Zealand Airforce.

Viewing of hearing

The Courtroom is open to the public.

Contact person:

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Court of Appeal decisions: [\[2020\] NZCA 268](#) (16 December 2021) and [\[2021\] NZCA 691](#) (16 December 2021)

Supreme Court leave decision: [\[2022\] NZSC 62](#) (17 May 2022)

