1975
April 24
—
STAVRINOU COSTA AND ANOTHER
v.
MUNICIPAL CORPORATION OF LIMASSOL

[TRIANTAFYLLIDES, P., L. LOIZOU, A. LOIZOU, JJ.]

1. STAVRINOU COSTA,
2. CHRYSOSTOMOS COSTA, AS ADMINISTRATORS OF THE ESTATE OF THE DECEASED COSTAS CHRISTODOULOU,

Appellants-Plaintiffs,

v.

THE MUNICIPAL CORPORATION OF LIMASSOL,

Respondent-Defendant.

(Civil Appeal No. 4904).

Master and Servant—Vicarious liabilty—Liability of master—Negligence of servant—When a servant is acting in the course of his employment—Test applicable—Section 13(2) of the Civil Wrongs Law, Cap. 148—Accident whilst driver of refuse truck was giving lift to fellow servant after the latter had finished his day's work and whilst truck was on its way to unload the refuse—In the circumstances of this particular case the driver was acting in the course of his employment.

Civil Wrongs—Volenti non fit injuria—*Fall of labourer whilst standing on running board of lorry in the manner envisaged by his system of work—Defence of* volenti non fit injuria *not available—Section 59 of the Civil Wrongs Law, Cap. 148.*

Damages—Fatal accident—Damages to the dependants—Section 58 of the Civil Wrongs Law, Cap. 148—Award of £2,750—On the material before the trial Court, it was reasonably open to it to make an award in the terms in which it did—And as this amount is not so high as to require intervention, Court of Appeal cannot interfere in this respect as an Appeal Court, with the decision of the trial Court.

The appellants complain against the dismissal of their action by virtue of which they had claimed damages, from the respondent, in respect of the death of the deceased Costas Christodoulou who was killed in an accident.

The respondent filed a cross-appeal seeking to set aside that part of the judgment of the trial Court whereby it was decided that the respondent's driver had contributed through his own negligence to the occurrence of the accident and, furthermore, the respondent has challenged, the amount of damages assessed under s. 58 of the Civil Wrongs Law, Cap. 148, as being clearly excessive.

The following statement of facts is taken from the judgment :

The respondent municipal corporation was using a lorry for the collection of refuse from some areas of Limassol town; a team of four workmen, comprising a driver and three sanitary labourers, were employed by the respondent in this connection; on the 7th November, 1968, one of the three labourers, was the deceased.

The usual routine for this team was to commence work at about 5 a.m. starting sometimes from the "coffee-shop of Pashis" at Paphos Street and sometimes from the "coffee-shop of Stelios" in the same street, depending on which area of the town they would visit. These two starting points are about 200 feet away from each other.

They used to collect refuse and load it on to the lorry and then, when the collection was completed, they would return to their starting point; two of the sanitary labourers would alight there from the lorry, in order to go home, and the driver of the lorry proceeded then to a point outside Limassol, in order to unload the refuse, accompanied by only one of the labourers; the three labourers were taking turns as regards this final stage of their work.

On the 7th November, 1968, the team set out with the lorry later than usually—at 6 a.m.—as it had been raining earlier on in the morning; they started from the "coffee-shop of Pashis" where they returned, having finished the collection of refuse, at about 9 a.m.; one of the labourers left the lorry there and another labourer, whose turn was to accompany the driver for the purpose of unloading the refuse, entered the driver's cabin. The deceased asked the driver to drive him home, but

he replied that he was busy; so the deceased asked to be given a lift, up to the "coffee-shop of Stelios".

During this short trip the deceased, who was wearing rubber boots, was standing on the running board on the left hand side of the lorry and holding on to a handle above the driver's door; this was the position in which the deceased and other labourers used to ride on the outside of the lorry during the collection of refuse.

It appears that as the deceased was trying to alight from the lorry he lost his balance and fell on to the asphalt with the result that the rear wheels of the lorry passed over him; he was taken to hospital but he died on the same day.

From the evidence in the case it appeared that:

(a) the application of the aforesaid practice, by virtue of which two sanitary labourers used to leave the lorry after the collection of refuse in order to go home, depended on where the labourers lived;

(b) the said practice was merely an arrangement to save time and it was not a hard and fast rule; on many occasions all the labourers were accompanying the driver for the purpose of helping him to unload the refuse;

(c) the deceased asked, on that fateful morning, to be given a lift up to the "coffee-shop of Stelios" so that he could go to his house at Omonia Quarter in Limassol, because it is, apparently, from this coffee-shop that one proceeds to Omonia Quarter along Omonia Street, which at that place joins up with Paphos Street; and, in this respect, it is to be borne in mind that when the lorry was going to collect refuse from Omonia Quarter it used to set out from the said coffee-shop;

(d) the deceased used to alight from the lorry at the "coffee-shop of Stelios" where he left sometimes his bicycle for the purpose of riding home from there;

(e) the deceased did not alight from the lorry and, then, got on it once again after an interval, but, when the lorry arrived at the "coffee-shop of Pashis" he asked to be given lift up to the "coffee-shop of Stelios", and he continued at the same position outside the lorry,

which he had been occupying when they reached the "coffee-shop of Pashis";

(f) the driver of the lorry, in giving a lift to the deceased up to the "coffee-shop of Stelios", did not deviate at all from his normal route; he was, in any event, going to drive past this coffee-shop in order to proceed to the locality where he would unload the refuse;

(g) it has not been established that the respondent had expressly prohibited the driver of the lorry from acting as he did in giving a lift to the deceased.

Though the trial Court dismissed the action it proceeded to assess the damages which would be payable in case the action had been successful, and it stated that it would have awarded £500 damages to the estate of the deceased, under s. 34 of the Administration of Estates Law, Cap. 189, and £2,750 under s. 58 of the Civil Wrongs Law, Cap. 148.

The trial Court further held that the death of the deceased was caused to the extent of two thirds by his own negligence and only to the extent of one third by the negligence of the driver of the lorry.

The ground upon which the trial Court dismissed the action was that the deceased at the material time was not acting in the course of his employment with the respondent and that, also, the respondent's driver was not at such time employed by the respondent to convey the deceased to the "coffee-shop of Stelios" from the "coffee-shop of Pashis".

The law applicable is governed by s. 13(2) of the Civil Wrongs Law, Cap. 148 which lays down that "an act shall be deemed to have been done in the course of a servant's employment if it was done by him in his capacity as a servant and whilst performing the usual duties of and incidental to his employment notwithstanding that the act was an improper mode of performing an act authorised by the master; but an act shall not be deemed to have been so done, if it was done by a servant for his own ends and not on behalf of the master".

As it is well settled that Cap. 148 is not an exhaustive

enactment, but that it embodies to a certain extent the common law of England, which is also otherwise applicable in case there is no express provision, in relation to a particular matter, in Cap. 148 and as the said s. 13(2) appears to have been based on relevant common law principles the Court of Appeal proceeded to review some English cases on the matter.

Counsel for the respondent in arguing the cross-appeal contended that the deceased knowingly and of his own volition undertook the risk involved in being conveyed, in the manner in which he was being conveyed, when the accident, happened, and, therefore, on the basis of the doctrine of *volenti non fit injuria* the action could not succeed. Relevant in this respect is s. 59 of the Civil Wrongs Law, Cap. 148 (quoted in full in the judgment *post*). Regarding respondent's complaint about the award of damages under s. 58 of Cap. 148, counsel submitted that the burden of proving the loss of the dependants was on the plaintiffs and that in this connection the evidence of appellant-plaintiff 1, who is the wife of the deceased, was not reliable.

Held, (A) with regard to the Appeal:

(1) In the light of all the facts as well as the legal principles we cannot agree with the trial court that on the balance of probabilities, on which this case had to be decided, the proper inference was that the driver of the lorry, in giving a lift to the deceased, was not acting within the course of his employment; doing so might not have been expressly authorised by the respondent, but, nevertheless, it was an act so closely connected, in the circumstances of this particular case, with what he had been authorised to do, that it cannot be regarded as an act outside the course of his employment.

(2) It follows that the respondent should be held vicariously liable for the negligence of its driver which contributed to the death of the deceased; and in view of this finding it is not really necessary for us to consider also whether the deceased was acting, during the fatal short trip between the two coffee-shops, in the course of his employment too.

Held, (B) with regard to the cross-appeal:

(1) The contention of counsel as to applicability of the doctrine of *volenti non fit injuria* cannot succeed, because the deceased was, at the material time, riding on the lorry in the manner (*i.e.* standing on the outside of the lorry and holding on to a handle) envisaged by his system of work; and, moreover, there has been found that there had been negligence on the part of the respondent's driver.

(2) Regarding the award of damages to the dependants of the deceased we are of the opinion that, on the material placed before the trial Court, it was reasonably open to it to make an award in the terms in which it did and as this amount is not so high as to require our intervention, we cannot interfere in this respect, as an Appeal Court, with the decision of the trial Court.

Appeal allowed.
Cross-appeal dismissed.

Cases referred to:

Marsh v. *Moores and Another* [1949] 2 All E.R. 27 at p. 32;

Conway v. *George Wimpey & Co. Ltd.* [1951] 2 K.B. 266 at pp. 275 - 276;

Staton v. *National Coal Board* [1957] 2 All E.R. 667 at p. 669;

Stallard v. *William Whiteley* (reported in Bingham's "All the Modern Cases on Neglicence" 2nd ed. p. 59 paragraph 104);

Hilton v. *Thomas Burton (Rhodes), Ltd. and Another* [1961] 1 All E.R. 74 at p. 76;

Municipal Coropration of Limassol v. *Agathangelos Constantinou* (1972) 1 C.L.R. 119, at p. 128.

Appeal and cross-appeal.

Appeal and cross-appeal against the judgment of the District Court of Limassol (Malachtos, P.D.C. and Loris, D.J.) dated the 4th May, 1970, (Action No. 1126/69) dismissing plaintiffs' action for damages in respect of the death of the deceased Costas Christodoulou.

A. Neocleous, for the appellants.

J. Potamitis, for the respondent.

Cur. adv. vult

The facts sufficiently appear in the judgment of the Court delivered by :

TRIANTAFYLLIDES, P. : The appellants, who are the administrators of the estate of the deceased Costas Christodoulou, late of Limassol, and who were the plaintiffs in action No. 1126/69 in the District Court Limassol, appeal from the decision of such Court dismissing the said action; by means of the action they had claimed damages, from the respondent, in respect of the death of the deceased.

The salient facts of the case are that the respondent municipal corporation was using a lorry, No. DL11, for the collection of refuse from some areas of Limassol town; a team of four workmen, comprising a driver and three sanitary labourers, were employed by the respondent in this connection; on the 7th November, 1968, one of the three labourers was the deceased.

The usual daily routine for this team was to commence work at about 5 a.m., starting sometimes from the "coffee-shop of Pashis" at Paphos Street and sometimes from the "coffee-shop of Stelios' in the same street, depending on which area of the town they would visit. These two starting points are about 200 feet away from each other.

They used to collect refuse and load it on to the lorry and then, when the collection was completed, they would return to their starting point; two of the sanitary labourers would alight there from the lorry, in order to go home, and the driver of the lorry proceeded then to a point outside Limassol, in order to unload the refuse, accompanied by only one of the sanitary labourers; the three labourers were taking turns as regards this final stage of their work.

On the 7th November, 1968, the team set out with the lorry later than usually—at 6 a.m.—as it had been raining earlier on in the morning; they started from the "coffee-shop of Pashis" where they returned, having finished the collection of refuse, at about 9 a.m., one of

the sanitary labourers left the lorry there and another sanitary labourer, whose turn was to accompany the driver for the purpose of unloading the refuse, entered the driver's cabin. The deceased asked the driver to drive him home but he replied that he was busy; so the deceased asked to be given a lift up to the "coffee-shop of Stelios".

During this short trip the deceased, who was wearing rubber boots, was standing on the running board on the left hand side of the lorry and holding on to a handle above the driver's door; this was the position in which the deceased and other labourers used to ride on the outside of the lorry during the collection of refuse.

An eyewitness saw the deceased making a movement as if he was getting ready to alight and at that moment the witness saw him falling off the lorry on to the asphalt, with the result that the rear wheels of the lorry passed over him; the lorry stopped and the deceased was taken to hospital; he died on the same day at the age of forty-four. It appears that as the deceased was trying to alight from the lorry he lost his balance and fell on to the asphalt. At the time the lorry was being driven slowly.

Though the trial Court dismissed the action it proceeded to assess, in any event, the damages which would be payable in case the action had been successful, and it stated that it would have awarded £500 damages to the estate of the deceased, under section 34 of the Administration of Estates Law, Cap. 189, and £2,750, under section 58 of the Civil Wrongs Law, Cap. 148.

The trial Court did not find that the above amounts would be payable in toto to the appellants, because it held that the death of the deceased was caused to the extent of two thirds by his own negligence and only to the extent of one third by the negligence of the driver of the lorry.

The respondent filed a cross-appeal seeking to set aside that part of the judgment of the trial Court by which it was decided that the respondent's driver had contributed through his own negligence to the occurrence of the accident and, furthermore, the respondent has

challenged, by the cross-appeal, the amount of damages assessed as payable under section 58 of Cap. 148, as being clearly excessive.

The trial Court based its view that the action of the appellants should be dismissed on the ground that the deceased at the material time was not acting in the course of his employment with the respondent and that, also, the respondent's driver was not at such time employed by the respondent to convey the deceased to the "coffee-shop of Stelios" from the "coffee-shop of Pashis".

By section 13(2) of Cap. 148 it is laid down that "an act shall be deemed to have been done in the course of a servant's employment if it was done by him in his capacity as a servant and whilst performing the usual duties of and incidental to his employment notwithstanding that the act was an improper mode of performing an act authorized by the master; but an act shall not be deemed to have been so done if it was done by a servant for his own ends and not on behalf of the master".

It is well settled that Cap. 148 is not an exhaustive enactment, but that it embodies to a certain extent the common law of England, which is also otherwise applicable in case there is no express provision, in relation to a particular matter, in Cap. 148.

Section 13(2) appears to have been based on relevant common law principles; it is, therefore, useful to look at some English cases on the matter :-

In *Marsh* v. *Moores and Another*, [1949] 2 All E.R. 27, Lynskey, J., stated the following (at p. 32) :-

> "In all these cases it must be a question of fact whether an unauthorised act by a servant is within the scope of his employment or outside his employment. In the cases we are now considering, the justices have found as facts that the respondent, John Moores, was the duly appointed driver of the vehicle, and that, while the vehicle was still proceeding on the route of its authorised journey, on his own initiative he allowed the respondent, Patricia Moores, to take the wheel and, while sitting beside her ready to operate the hand-brake, gave her a lesson in

driving the vehicle along the road. In acting as he did, was John Moores doing an unauthorised act within the scope of his employment or an unauthorised act outside his employment? In my view, he still retained the control and management of the vehicle. He still retained some power to control the driving of the vehicle by operating the hand-brake and in instructing Patricia Moores as to how she should drive. In these circumstances, it seems to me that he still remained the driver of the car, and in allowing Patricia Moores to take the wheel under his directions he was acting within the scope of his employment, although in an unauthorised and improper way."

In *Conway* v. *George Wimpey & Co. Ltd.*, [1951] 2 K.B. 266, Asquith, L.J., said (at pp. 275 - 276) :-

"As was pointed out, I think, in *Twine's* case by Uthwatt, J., sitting as an additional judge of the King's Bench Division, in the Court of first instance (1945) 62 T.L.R. 155, it was 'outside the scope of the driver's employment' in that case 'for him to bring within the class of persons to whom the duty to take care was owed by the employer, a man to whom contrary to his instructions he gave a lift'. Those words seem to me directly in point here. To put it differently, I should hold that taking men not employed by the defendants on to the vehicle was not merely a wrongful mode of performing the act of the class this driver was employed to perform, but was the performance of an act of a class which he was not employed to perform at all."

In *Staton* v. *National Coal Board*, [1957] 2 All E.R. 667, Finnemore, J., stated (at p. 669) :-

"As to the general principle, it is clear, first of all, that for the doctrine of vicarious responsibility to apply there must be the relationship of master and servant. That is not in dispute in this case, because Mr. Townsend was employed by the defendants, the National Coal Board. The second point is that the servant, when he commits the tort, must be acting in the course of his employment. It is on that second limb that the argument and discussion

have taken place in this particular matter. The master is not responsible for a wrongful act done by a servant unless it is done in the course of his employment. Most of the cases deal with the point that an act is presumed to be in the course of the workman's employment if it is, first of all, a wrongful act authorised by the master—that does not apply to this case—or a wrongful, though unauthorised, mode of doing some act which was authorised by the master. Various other tests have been suggested; it is not enough, for example, that the negligence was committed at a time when the servant was engaged on the master's business; it must be committed in the course of that business, so as to form a part of it, and not merely to be coincident in time."

In the case of *Stallard* v. *William Whiteley*, reported only in Bingham's "All the Modern Cases on Negligence", 2nd ed., p. 59, paragraph 104, the Court of Appeal in England, in 1960, held that the driver who made a small deviation on his way to the depot in order to stop at a public-house and drop a friend at his house, was still acting in the course of his employment.

In Hilton v. *Thomas Burton (Rhodes), Ltd. and Another*, [1961] 1 All E.R., 74. Diplock, J., stated the following (at p. 76):-

"Are the first defendants liable, vicariously, for the second defendant's negligence? I think that the true test can best be expressed in these words: Was the second defendant doing something that he was employed to do? If so, however improper the manner in which he was doing it, whether negligent as in *Century Insurance Co., Ltd.* v. *Northern Ireland Road Transport Board*, [1942] 1 All E.R. 491; [1942] A.C. 509, or even fraudulent, as in *Lloyd* v. *Grace, Smith & Co.*, [1912] A.C. 716, or contrary to express orders, as in *Canadian Pacific Ry. Co.* v. *Lockhart*, [1942] 2 All E.R. 464; [1942] A.C. 591, the master is liable. If, however, the servant is not doing what he is employed to do, the master does not become liable merely because the act of the servant is done with the master's knowledge, acquies-

cence, or permission. To say, as is sometimes said, that vicarious liability attaches to the master where the act is an act, or falls within a class of act, which the servant is authorised to do, may be misleading. In one sense, a master may be said to authorise a servant to do an act when he grants the servant permission to do something for the servant's own benefit, which, without such permission, would be a breach of his contract of employment or even a tort, as when he permits him to take time off for refreshment in working hours, as in *Crook* v. *Derbyshire Stone, Ltd.*, [1956] 2 All E.R. 447, or permits him to use the master's property, as in *Higbid* v. *R. C. Hammett, Ltd.*, [1932], 49 T.L.R. 104. In such cases, the master is not liable, for although he may be said, in a loose sense, to authorise the act, it is nevertheless not an act which the servant is employed to do."

In the *Hilton* case it was found that the driver of a van of his employer was not at the time when an accident happened—(with the result that a co-worker of his was killed)—doing anything that he was employed to do, because the accident happened when the driver and two of his co-workers, one being the deceased, had left their place of employment and they had embarked on a seven-miles trip to a café in order to have tea there.

The *Staton* and *Hilton* cases, above, were referred to, together with other case-law, in *Municipal Corporation of Limassol* v. *Agathangelos Constantinou* (1972) 1 C.L.R. 119, where at p. 128, the following passage from Clerk & Lindsell on Torts, 13th ed., paragraph 218, was quoted with approval :-

"The question whether a wrongful act is within the course of a servant's employment, or, as it is sometimes put, whether it is within the scope of his authority, is ultimately a question of fact, and no simple test is appropriate to cover all cases. That most frequently adopted is given by Salmond, namely, that a wrongful act is deemed to be done in the course of the employment, 'if it is either (1) a wrongful act authorised by the master, or (2) a wrongful and unauthorised mode of doing some act autho-

rised by the master. It is clear that the master is responsible for acts actually authorised by him: For liability would exist in this case, even if the relation between the parties was merely one of agency, and not one of service at all. But a master, as opposed to the employer of an independent contractor, is liable even for acts which he has not authorised, provided they are so connected with acts which he has authorised that they may rightly be regarded as modes—although improper modes—of doing them' ".

It appears from the evidence in the present case that :-

(a) The application of the aforementioned practice, by virtue of which two sanitary labourers used to leave the lorry after the collection of refuse in order to go home, depended on where the labourers lived;

(b) the said practice was merely an arrangement to save time and it was not a hard and fast rule; on many occasions all the labourers were accompanying the driver for the purpose of helping him to unload the refuse;

(c) the deceased asked, on that fateful morning, to be given a lift up to the "coffee-shop of Stelios" so that he could go to his house at Omonia quarter in Limassol, because it is, apparently, from this coffee-shop that one proceeds to Omonia quarter along Omonia Street, which at that place joins up with Paphos Street; and, in this respect, it is to be borne in mind that when the lorry was going to collect refuse from Omonia quarter it used to set out from the said coffee-shop;

(d) the deceased used to alight from the lorry at the "coffee-shop of Stelios" where he left sometimes his bicycle for the purpose of riding home from there;

(e) the deceased did not alight from the lorry and, then, got on it once again after an interval, but, when the lorry arrived at the "coffee-shop of Pashis" he asked to be given lift up to the "coffee-shop of Stelios", and he continued at the same position outside the lorry, which he had been occupying when they reached the "coffee-shop of Pashis";

(f) the driver of the lorry, in giving a lift to the de-

ceased up to the "coffee-shop of Stelios", did not deviate at all from his normal route; he was, in any event, going to drive past this coffee-shop in order to proceed to the locality where he would unload the refuse;

(g) it has not been established that the respondent had expressly prohibited the driver of the lorry from acting as he did in giving a lift to the deceased.

In the light of all the foregoing—the facts as well as the legal principles—we cannot agree with the trial Court that on the balance of probabilities, on which this case had to be decided, the proper inference was that the driver of the lorry, in giving a lift to the deceased, was not acting within the course of his employment; doing so might not have been expressly authorised by the respondent, but, nevertheless, it was an act so closely connected, in the circumstances of this particular case, with what he had been authorised to do, that it cannot be regarded as an act outside the course of his employment. It follows that the respondent should be held vicariously liable for the negligence of its driver which contributed to the death of the deceased; and in view of this finding it is not really necessary for us to consider also whether the deceased was acting, during the fatal short trip between the two coffee-shops, in the course of his employment too.

As already mentioned, the trial Court found that the driver of the respondent contributed to the fatal accident, through his own negligence, to the extent of one third. We have carefully considered all that has been argued in this respect by learned counsel for the respondent, but we have not been convinced that we should interfere with the apportionment of liability as made by the trial Court; we are sitting as an appeal tribunal and though had we been sitting as a Court of first instance we might possibly have found somewhat otherwise, we cannot discard, as clearly erroneous, the view taken by the trial Court in this respect.

This being so, what remains to be considered, before dealing with the question of damages, is the contention of counsel for respondent that the deceased knowingly and of his own volition undertook the risk involved in

being conveyed, in the manner in which he was being conveyed when the accident happened, and, therefore, on the basis of the doctrine of *volenti non fit injuria* the action cannot succeed. In this respect reference has to be made to section 59 of Cap. 148 which reads as follows :-

"59. It shall be a defence to any action brought in respect of a civil wrong that the plaintiff knew and appreciated or must be taken to have known and appreciated the state of affairs causing the damage and voluntarily exposed himself or his property thereto :

Provided that the provisions of this section shall not apply to any action brought in respect of any civil wrong when such wrong was due to the non-performance of a duty imposed upon the defendant by any enactment :

Provided also that no child under the age of twelve years shall be deemed to be capable of knowing or appreciating such state of affairs or of voluntarily exposing himself thereto or of himself exposing his property thereto."

In our view the contention in question of counsel for the respondent cannot succeed because the deceased was, at the material time, riding on the lorry in the manner (*i.e.* standing on the outside of the lorry and holding on to a handle) envisaged by his system of work; and, moreover, there has been found that there had been negligence on the part of the respondent's driver.

We pass on, next, to the issue of damages : In presenting the cross-appeal counsel for respondent did not argue that we should disturb the award of £500 made under section 34 of the Administration of Estates Law, Cap. 189. He only challenged the damages awarded under section 58 of Cap. 148, namely £2,750.

It was submitted in this respect on behalf of the respondent that the burden of proving the loss of the dependants of the deceased was on the plaintiffs and that in this connection the evidence of appellant-plaintiff 1, who is the wife of the deceased, was not reliable. We are of the opinion that, on the material placed before

the trial Court, it was reasonably open to it to make an award in the terms in which it did and as this amount is not so high as to require our intervention, we cannot interfere in this respect, as an Appeal Court, with the decision of the trial Court.

As a result, this appeal is allowed and judgment is given in favour of the appellants for £1,083, that is for one third of the total of damages assessed, the respondent being liable to compensate the appellants only to the extent of one third of their loss.

The costs of the appellants before the trial Court and before this Court, as assessed on the appropriate scale, to be borne by the respondent.

Appeal allowed with costs.

Note: Judgment shall not be entered and payment shall not be effected until the appellants produce the relevant certificate under the Social Insurance legislation.