

Case No. 6,694.

HOPKINS v. THE ZEBA.
MONIRE v. THE THOMAS MORGAN.

[2 Hughes, 64.]¹

Circuit Court, D. South Carolina.

1877.

NEGLIGENCE—INJURY TO VESSEL—DAMAGES.

Where an injury or damage is caused or results to a vessel by the carelessness of those in charge of another, or from the want of skill in those navigating the other, the vessel causing the damage must bear the loss occasioned to the injured vessel as well as her own.

Appeal in admiralty from the district court [These were libels by George H. Hopkins, master of the steam tug Thomas Morgan, against the British bark Zeba and the Commercial Wharf & Cotton-Press Company, and by John D. Monire, master of the Zeba, against the Thomas Morgan and the Commercial Wharf & Cotton-Press Company.]

These causes coming on to be heard together, and having been argued by counsel, before.

BOND, Circuit Judge. The court doth find the facts to be, that on or about the 29th day of August, 1875, the British bark Zeba arrived at the port of Charleston in ballast. That upon her arrival the Commercial Wharf Company, a corporation under the laws of South Carolina, through its agent, offered the bark free wharfage at their wharf in consideration of the ballast which the Zeba was about to discharge, and the master of the bark accepted the offer, and agreed to deliver to the company his ballast for the use of the company's wharf, and was hauled into it and lay alongside thereof discharging her ballast, being fastened in the usual way to the wharf by hawsers thrown over posts prepared for that purpose, from the thirty-first day of August, 1875, until the second day of September, 1875, about five o'clock of that day. At this last-named time the appellant, the steam tug Thomas Morgan, by agreement with the master of the bark, came alongside the vessel, and threw a line over the vessel and asked the captain of the bark if he were ready to be towed to another wharf, as the tug had been engaged by the bark to do. The captain of the bark said he was ready, and throwing his lines off the wharf which held the vessel in her upright position, she immediately capsized. And the court doth find the facts to

HOPKINS v. The ZEBA.MONIRE v. The THOMAS MORGAN.

be further, that the cause of the capsizing of the said bark was the carelessness and want of the exercise of proper judgment on the part of the captain of the bark Zeba, in discharging his whole ballast and then throwing off the lines which held her to the wharf. And the court further finds the fact that in her overturn the bark fell across the tug Thomas Morgan, and without any fault on the part of the tug, sunk her, and damaged her to the amount of \$3707.81, and that the bark Zeba was damaged to the amount of \$4009.78. And the court doth find the following conclusions of law: That where an injury or damage is caused or results to a vessel by the carelessness of those in charge of another, or from the want of skill in those navigating the other, the vessel causing the damage must bear the loss occasioned to the injured vessel as well as her own. And the court doth dismiss the libel of said John D. Monire, master, etc., against the Commercial Wharf & Cotton-Press Company, with costs. And doth also dismiss the libel of the said John D. Monire, master, etc., against the steam tug Thomas Morgan, with costs, and doth decree in the cause of the libel of the said steam tug Thomas Morgan, against the said bark Zeba, that the libellants do recover of the said bark and her owners the sum of \$3707.81, with interest from 1st of October, 1875, and with costs; and that the libel of the tug Thomas Morgan against the said Commercial Wharf Company be dismissed with costs.

¹ [Reported by Hon. Robert W. Hughes, District Judge, and here reprinted by permission.]