



HIGH COURT OF AUSTRALIA

Public Information Officer

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ROSELLIE JONNELL COLE v SOUTH TWEED HEADS RUGBY LEAGUE FOOTBALL CLUB LIMITED AND ANGELA JANE LAWRENCE

A woman who was struck by a vehicle while intoxicated failed in her appeal against the rugby league club where she had spent the day drinking. The High Court of Australia held the club had not breached any duty it owed to the woman.

Ms Cole, then aged 45, attended a regular Sunday champagne breakfast at the club with friends and stayed on drinking while football matches were played. She was asked to leave at 5.30pm and was struck by a four-wheel drive vehicle driven by Mrs Lawrence near the club at 6.20pm and seriously injured. She was found to have a blood-alcohol concentration of 0.238 per cent.

The Court of Appeal of the Supreme Court of New South Wales held that the evidence did not support a finding that Mrs Lawrence had driven negligently. It held that the club owed Ms Cole only the general duty of care owed by the occupier of premises to a lawful entrant. This duty did not extend to protecting patrons from harm of the kind suffered by Ms Cole caused by inebriation. Ms Cole appealed to the High Court.

In the High Court Ms Cole argued that the club supplied her with drink when a reasonable person would know she was intoxicated and that it allowed her to leave in an unsafe condition. However other people bought alcohol that she drank, drinks could also be bought at the adjoining football ground and the club refused her service from 3pm. The High Court accepted the Court of Appeal finding that the club had not served her after 12.30pm. When the club manager asked Ms Cole to leave, he offered her both the club's courtesy bus and a taxi, but she swore at him, and two men she had befriended said they would take care of her.

The High Court, by a 4-2 majority, dismissed the appeal. It held that an adult in Ms Cole's position knew the effects and risks of excessive drinking and that the club had done all that could be expected of it to ensure her safety. The Court held the club could not be expected to monitor the number of drinks consumed by each patron or to compel her to stay on its premises to sober up after she refused its offers of transport. Without deciding the content and extent of any duty of care owed by an operator of licensed premises, which might depend on the circumstances of a particular case, the Court held that the club had not failed in any duty toward Ms Cole.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*