

Contributory negligence finding despite adherence to speed limit

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The High Court, in *James v Halliday* [2024] IEHC 281, has held that the estate of a tractor driver was 75% liable for a fatal road traffic accident, which also caused significant injuries to the plaintiff car driver. The tractor did not have an illuminated safety beacon as required by The Road Traffic (Lighting of Vehicles) (Amendment) Regulations 2014. However, the plaintiff was found to be 25% contributory negligent for the accident on account of driving too fast for the conditions, despite being within the speed limit for the road in question.

Background

The collision occurred between the plaintiff's car and a tractor travelling in the same direction at approximately 6.50am in January 2018. The road surface was wet but it was not raining, there was no frost and the surface of the road was in good condition. The accident occurred on a national road but the court noted it was in a rural area, with no street lighting, no hard shoulder and a single carriageway on both sides. The accident resulted in the death of the tractor driver while the plaintiff suffered serious injuries, including fractures to his sternum and left hand.

In terms of liability, the court had to determine whether the plaintiff was travelling too fast and whether he ought to have





seen the tractor in sufficient time to have avoided colliding into it.

Speed of Plaintiff's Car

One of the central issues in the case was the speed at which the plaintiff was travelling at the time of the collision. The speed limit for the road was 100km per/hour. The speedometer on the plaintiff's car was stuck on 113km per/hour following impact but in light of the evidence provided, the court held that it could not find that the plaintiff was travelling above the legal speed limit but was, however, driving very close to it. The court held that the plaintiff was driving too fast in light of the pertaining circumstances and a driver cannot drive at the upper end of the speed limit in all circumstances. Instead, the speed limit is an indication of the maximum speed possible in ideal driving conditions. In this instance, it was dark, the stretch of road had dangerous bends, there were side roads to the left and right and the surface was wet. The court held that the plaintiff was negligent in terms of the speed of the car.

Condition of the Tractor

The court accepted the plaintiff's evidence that he did not see the tractor prior to impact. While the court held, on the balance of probabilities, that the taillights on the tractor were not blocked by a link box being carried to the rear, it had regard to the fact that given the age of the tractor they may have been relatively weak and there was no street lighting or illumination from an oncoming vehicle at the time of the accident.

The Road Traffic (Lighting of Vehicles) (Amendment) Regulations 2014 (SI 249/2014) make it mandatory for drivers of agricultural vehicles to have an illuminated yellow beacon on their agricultural vehicle when driving on public roads. The tractor was travelling at an extremely slow speed and the court held the driver was '*highly negligent*' in failing to

illuminate the yellow beacon, which was exacerbated by the fact the tractor was a 1965 model with weak taillights.

The court was satisfied that the tractor driver was 75% responsible for the accident and the plaintiff was guilty of 25% contributory negligence.

Quantum

The spinal fractures suffered by the plaintiff resulted in him being in a brace for three months post-accident and his hand was in a cast for six weeks. He spent 4 days in hospital after the accident. Evidence was given that the plaintiff also suffered PTSD after the accident, had suicidal ideation and remains on antidepressant medication.

The court found that the plaintiff will not be fit for heavy manual work in the future and will continue to experience pain and discomfort in his back and left hand into the future. The court held that the fact the plaintiff had not worked since the time of the accident was referable to physical and psychological injuries that he suffered on account of the accident.

The court assessed general damages for pain and suffering and disablement to date to be €90,000 and general damages into the future at €40,000. The court further held that it was appropriate to make allowance for loss of earnings into the future and assessed damages for loss of opportunity at €30,000. The court held over its final assessment of loss of earnings to date pending further submissions from the parties.

Conclusion

The judgment illustrates how the High Court will examine the prevailing circumstances of an accident in its entirety when considering the apportionment of liability and adherence to speed limits will not necessarily protect against contributory negligence when speed is deemed to be a factor.

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