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Jury awards over $4M to plaintiff for fatal freeway crash

Truck driver found to be most negligent

By Thomas Franz

A comparative negligence case arising from a rear-end crash in 2015 on I-94 in Wayne County has resulted in a jury awarding $4.45 million to the family of a deceased 51-year-old man.

Questions surrounded the case, *Stevenson v. Simpson Group, Inc., et al.,* as to which party was more negligent for causing the crash between the now-deceased car driver and a semi-truck.

The jury in a Wayne County Circuit Court decided in early February that the driver of the semi-truck was 60 percent negligent, the trucking company was 25 percent negligent and the car driver was 15 percent negligent.

STEWART

ELLIS

Crash evidence

The crash occurred at 8:39 a.m. Jan. 5, 2015, on westbound I-94 between the Southfield Freeway and Pelham Road.

Despite an air temperature of 8 degrees, road conditions were clear and dry that morning.

A truck capable of carrying a full-length trailer of 70,000 pounds had broken down in the second lane from the right. The truck was in a "bobtail" situation, which means that it wasn't carrying anything on its trailer that morning.

The truck remained stalled in the lane for 14 minutes before a car struck its trailer at 55 mph, said plaintiff attorney Jeffrey Stewart of Seikaly, Stewart & Bennett PC in Farmington Hills. Defense attorney John Eads III of Wilson Elser in Livonia said the defense's expert witness claimed the car was traveling between 74-78 mph.

The car driver, who was proven to not be wearing his seatbelt at the time of the crash, died at the crash site. There were no passengers in the car.

The plaintiff in the case, the wife of the car driver, was represented by Stewart and Tiffany Ellis.

Determining negligence

An initial question of negligence involved how the truck came to be stalled out in the middle of the freeway.

Stewart and Ellis claimed that there was ample evidence showing that the truck had a frozen drive wheel, which caused a failure of the drive line. They said the driver had failed to inspect the vehicle prior to driving that morning.

"The brake on the right rear tire was frozen, and he left the yard without checking to see if all of his tires were moving, that's something that needs to be done per standards of federal law," Ellis said. "He didn't do that. He dragged the wheel 2.5 miles at least, and it finally locked up and the truck seized up in the middle of the lane."

Stewart and Ellis did not have any eyewitnesses to the accident, but they did have a witness plus a sheriff who testified that there were people swerving near the truck.

The truck did have emergency flashing lights on, but the truck driver did not place any warning signals behind the trailer, like flares or orange warning triangles.

"The driver was not equipped with flares, which was another option he could use to alert other drivers. There was no warning that was given to other drivers on the road that morning," Ellis said.

That lack of warning led to many near-misses before the crash, Stewart said.

"Hitting (the truck) was less than a second of perception time, that's the difference between living and dying that morning," Stewart said.

Ellis added that the car driver did try to swerve at the last second based on the way the car was placed on the road following the crash.

"We did prove in this case that there must have been something that was either in the way or preventing him from realizing that this truck had stopped in the middle of the highway. Without any direct video footage or evidence, it's hard to say exactly what happened in those final moments, but we believe there was a sudden emergency that prevented him from being able to stop in time, even though he did swerve," Ellis said.

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Whereas the plaintiff's side argued that the truck driver was negligent in not checking his tires, Eads said the defense argued a sudden emergency strategy.

"First and foremost, we argued that the tow truck driver had a sudden mechanical breakdown," Eads said. "The plaintiff was not using a seatbelt, so we also argued that he should be found comparatively at fault for not using his seatbelt."

Eads said their main focus was to show that the car driver violated three statutes, including MCL 257.402, which states that a driver is presumed negligent after rear-ending a vehicle.

Plaintiff strategy points

Stewart said that evidence from the truck's black box showed the truck driver was telling a different story from what occurred.

"His story was that everything had happened in the last few seconds, that from the time he had any reason to believe there was anything wrong with his truck to the time it was completely stopped was 10 seconds. The black box showed it was well over a minute in which he had the throttle wide open and the truck was still losing speed gradually," Stewart said. "We believe that was very significant in satisfying the jury that he had time to get over and was not being totally candid about any of that."

Stewart also said convincing the jury to not always blame the driver who did the rear-ending was key to the verdict.

"I think the thing we did that was most important ultimately was to get the jury to confront the fact that our automatic tendency is to blame the victim," Stewart said. "Our strategy was to demonstrate that there were many different things the defendants did that were wrong. I think that strategy was ultimately successful because the allocation of comparative negligence to the car driver was 15 percent relative to the cause of the accident."

High-low agreement

While the jury awarded $4.45 million to the plaintiff, she will be receiving just $1 million, Eads said.

That is due to a high-low agreement that was struck before trial. Eads said that if the defense won, the plaintiff would still receive $250,000, but if it came out on the high end, her award would be capped at $1 million.

"Even though she was awarded millions of dollars, the high-low agreement capped her recovery. It's the first one I've done in my career, but it does happen," Eads said.

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