

COURT OF APPEALS OF MARYLAND

Brooks v. Sun Cab Co., Inc., 208 Md. 236

117 A.2d 554 (1955) · No. No. 19, October Term, 1955 · Decided October 19, 2001

SUMMARY

The Maryland Court of Appeals held that evidence of a taxicab driver's speed and the resulting impact was sufficient to submit the issue of primary negligence to the jury. It further held that the passenger's failure to warn the driver did not support a contributory-negligence instruction because there was no evidence that she knew of the street dip or otherwise failed to exercise ordinary care. The judgment for Sun Cab Company was reversed and the case remanded for a new trial.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Delaplaine, J.; Brune, C.J.; Collins, J.; Henderson, J.; Hammond, J.
JURISDICTION	Maryland
DECIDED	October 19, 2001
DOCKET	No. 19, October Term, 1955
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from a judgment entered for the defendant after a jury verdict in the Baltimore City Court.
STANDARD OF REVIEW	The court reviewed whether the evidence was legally sufficient to submit primary negligence and contributory negligence to the jury and whether the contributory-negligence instruction was prejudicial error.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential state appellate decision.
PARTIES	Marion Major Brooks v. Sun Cab Company, Inc.

TOPICS

- personal injury
- negligence
- standard of care
- contributory negligence
- appellate procedure

PRACTICE AREAS

- torts
- personal injury
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to submit the taxicab driver's primary negligence to the jury.
2. Whether the evidence supported submitting contributory negligence to the jury based on Brooks's alleged failure to warn the driver or otherwise protect herself.
3. Whether the contributory-negligence instruction was prejudicial error requiring reversal.

HOLDINGS

1. The evidence was legally sufficient to warrant submission to the jury of whether the taxicab driver was negligent in driving into the dip at the speed and in the manner alleged by Brooks.
2. A rear-seat taxicab passenger ordinarily has no duty to constantly watch for dangers, warn the driver, or protest the manner of operation when the danger should be as apparent to the driver as to the passenger, absent circumstances indicating that the driver is incompetent, reckless, or inattentive.
3. Because there was no evidence of contributory negligence or any legally supportable inference of it, the instruction permitting the jury to find for the defendant based on any failure by Brooks to use ordinary care was prejudicial error.

KEY QUOTATIONS

"It is an established rule in Maryland, laid down by Judge Alvey in Baltimore & Ohio R. Co. v. State, to Use of Hauer, 60 Md. 449, 462, that while common carriers of passengers are not insurers of absolute safety, yet they are bound to exercise reasonable care according to the nature of their contract; and as their employment involves the safety of the lives and limbs of their passengers, the law requires the highest degree of care which is consistent with the nature of their undertaking." (208 Md. at 242)

"Only in very exceptional instances is a passenger in a taxicab under a duty to be on the lookout for dangers that may be encountered so as not to be charged with contributory negligence in case he is injured." (208 Md. at 243-244)

"In any event, there is no duty on a passenger to constantly divert the driver's attention by warnings of danger which should be just as apparent to the driver as to the passenger, unless the driver's conduct indicates that he is incompetent, reckless, or inattentive." (208 Md. at 244)

"As there was no evidence of contributory negligence, the judge's instruction on contributory negligence was prejudicial error." (208 Md. at 245)

FACTUAL BACKGROUND

Brooks was riding in the rear seat of Sun Cab's taxicab when the cab crossed a dip in the street at the intersection of Lafayette Avenue and Poplar Grove Street. She testified that the driver accelerated, nearly lost control, and jolted her into the ceiling, causing back pain and headaches that continued through and after her pregnancy. The driver denied unusual speed or any unusual event, but admitted he had driven over the dip many times and did not see it.

PROCEDURAL HISTORY

Brooks sued Sun Cab Company for personal injuries sustained while riding in the company's taxicab. The trial court denied a directed-verdict request, submitted primary negligence and contributory negligence to the jury, and entered judgment for Sun Cab after the jury returned a defense verdict. Brooks appealed, and the Court of Appeals of Maryland reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment for Sun Cab Company was reversed and the case was remanded for a new trial.

CASES CITED

- Goldsworthy v. Public Service Commission, 141 Md. 674, 119 A. 693
- Stewart Taxi-Service Co. v. Spencer, 149 Md. 635, 642, 132 A. 153
- Carlton v. Boudar, 118 Va. 521, 88 S.E. 174, 4 A.L.R. 1480
- Anderson v. Yellow Cab Co., 179 Wis. 300, 191 N.W. 748, 31 A.L.R. 1197
- Baltimore & Ohio R. Co. v. State, to Use of Hauer, 60 Md. 449, 462
- O'Connell v. Quaker City Cab Co., 84 Pa. Super. Ct. 323
- Anne Arundel County Commissioners v. Carr, 111 Md. 141, 151-152, 73 A. 668
- Sieland v. Gallo, 194 Md. 282, 71 A.2d 45
- Dashiell v. Moore, 177 Md. 657, 672, 11 A.2d 640
- Baltimore, C. & A.R. Co. v. Turner, 152 Md. 216, 228, 136 A. 609
- State, to Use of Creasey v. Pennsylvania R. Co., 190 Md. 586, 593, 59 A.2d 190
- Przyborowski v. Baltimore Transit Co., 191 Md. 63, 59 A.2d 687
- Lindenberg v. Needles, 203 Md. 8, 14, 97 A.2d 901

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