

COURT OF APPEALS OF OREGON

Gaucin v. Farmers Insurance Company of Oregon, 209 Or. App. 99

146 P.3d 370 (2006) · No. A128462 · Decided November 1, 2006

SUMMARY

The Oregon Court of Appeals held that ORS 742.544 does not independently authorize an insurer to obtain reimbursement of personal injury protection benefits. Instead, the statute prioritizes compensation of the insured's economic damages and limits reimbursement otherwise authorized under related statutes to amounts exceeding those damages. The court reversed and remanded the trial court's summary judgment for the insurer.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Schuman, Presiding Judge; Landau, Judge; Ortega, Judge
JURISDICTION	Oregon
DECIDED	November 1, 2006
DOCKET	A128462
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff sought a declaratory judgment concerning the insurer's claimed right to reimbursement of personal injury protection benefits. On cross-motions for summary judgment, the trial court granted the insurer's motion; the Oregon Court of Appeals reversed and remanded.
STANDARD OF REVIEW	Review of the parties' cross-motions for summary judgment; the opinion does not expressly state a separate standard-of-review formulation.
PRECEDENTIAL VALUE	Published Oregon Court of Appeals opinion; precedential
PARTIES	Mario V. Gaucin v. Farmers Insurance Company of Oregon

TOPICS

insurance coverage statutory interpretation legislative intent declaratory judgment appellate procedure

PRACTICE AREAS

insurance statutory interpretation remedies appellate procedure

QUESTIONS PRESENTED

1. Whether ORS 742.544(1) independently authorizes a PIP insurer to obtain reimbursement of PIP benefits.
2. Whether ORS 742.544(1) instead operates as a limitation on reimbursement available under the specific authorization provisions of ORS 742.534, ORS 742.536, and ORS 742.538.
3. Whether the trial court erred by granting Farmers summary judgment on the ground that ORS 742.544(1) entitled Farmers to reimbursement.

HOLDINGS

1. ORS 742.544(1) does not independently authorize PIP insurance reimbursement. It limits the amount of reimbursement that may be obtained under the existing authorization provisions of ORS 742.534, ORS 742.536, and ORS 742.538.
2. Where reimbursement is otherwise authorized, ORS 742.544 prioritizes the PIP insured's recovery of economic damages and permits the insurer to recover only PIP benefits that exceed those economic damages.

KEY QUOTATIONS

“In sum, ORS 742.544 does not independently authorize PIP insurance reimbursement. Rather, it (1) prioritizes the PIP insured as the recipient of PIP benefits up to the amount of the insured's economic damages, even where the insured has received payment from the tortfeasor, and (2) limits a PIP insurer's reimbursement to the amount of PIP benefits that exceed the PIP insured's economic damages as defined in the statute.” (146 P.3d 375-376)

FACTUAL BACKGROUND

Gaucin held an automobile insurance policy with Farmers providing \$25,000 in PIP coverage and \$50,000 in UIM coverage. After an accident caused by an underinsured motorist, he incurred at least \$55,484 in economic damages, received \$25,000 in PIP benefits, and settled with the tortfeasor's insurer for its \$25,000 policy limit. Farmers tendered \$50,000 in UIM benefits only on the condition that Gaucin reimburse the previously paid PIP benefits under ORS 742.544(1).

PROCEDURAL HISTORY

Gaucin received PIP benefits and settled with the at-fault driver's insurer, then sought UIM benefits from Farmers. Farmers conditioned its tender of UIM benefits on reimbursement of the PIP payment, prompting Gaucin to file a declaratory-judgment action. The trial court held that ORS 742.544 authorized Farmers to obtain reimbursement and granted summary judgment to Farmers. The Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must reconsider the declaratory-judgment and summary-judgment issues consistently with the holding that ORS 742.544(1) does not independently authorize Farmers to obtain PIP reimbursement.

CASES CITED

- State v. Stamper, 197 Or. App. 413, 418, 106 P.3d 172, rev. den., 339 Or. 230, 119 P.3d 790 (2005)
- Babb v. Mid-Century Ins. Co., 110 Or. App. 67, 821 P.2d 424 (1991), rev. den., 313 Or. 209, 830 P.2d 595 (1992)
- North Pacific Ins. Co. v. Hamilton, 153 Or. App. 332, 339 n. 3, 957 P.2d 165 (1998), rev'd in part, 332 Or. 20, 22 P.3d 739 (2001)
- Bergmann v. Hutton, 337 Or. 596, 601, 101 P.3d 353 (2004)
- Yokum v. Farmers Ins. Co., 117 Or. App. 546, 549 n. 1, 844 P.2d 937, rev. den., 317 Or. 272, 858 P.2d 1314 (1993)

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