

SUPREME COURT OF OKLAHOMA

Montgomery v. Potter

2014 OK 118 (Okla. 2014) · No. 111928 · Decided December 16, 2014

SUMMARY

The Oklahoma Supreme Court held that 47 O.S. 2011, § 7-116, commonly known as the No Pay, No Play law, was an unconstitutional special law under article 5, § 46 of the Oklahoma Constitution. The statute improperly limited pain-and-suffering damages for uninsured drivers in automobile negligence actions, and the court affirmed the trial court's certified interlocutory order striking down the statute.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Winchester, J.
JURISDICTION	Oklahoma
DECIDED	December 16, 2014
DOCKET	111928
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant petitioned for certiorari to review a certified interlocutory order declaring 47 O.S. 2011, § 7-116 unconstitutional. The Oklahoma Supreme Court previously granted the writ and reviewed the interlocutory ruling.
STANDARD OF REVIEW	The opinion does not expressly state a separately labeled standard of review; it independently reviewed the constitutionality of the statute on certiorari from a certified interlocutory order.
PRECEDENTIAL VALUE	The opinion is identified as 2014 OK 118 but bears a notice stating that it had not been released for publication and was subject to revision or withdrawal until released.
PARTIES	Morgan Potter v. Rachael Montgomery, individually, Rachael Montgomery, as natural mother of Noah Orcutt, Noah Orcutt

TOPICS

appellate procedure

interlocutory appeal

constitutional law

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negligence

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether 47 O.S. 2011, § 7-116, which limits an uninsured driver's recovery in an automobile-accident action to medical costs, property damage, and lost income and excludes pain-and-suffering damages, violates article 5, § 46 of the Oklahoma Constitution as an unconstitutional special law.

HOLDINGS

1. Section 7-116 is an unconstitutional special law because it targets uninsured automobile-accident plaintiffs, a subset of plaintiffs in automobile-negligence actions, for different treatment by restricting their recovery of pain-and-suffering damages.

KEY QUOTATIONS

“Section 7-116 creates an impermissible special class by restricting damages in civil negligence actions for victims who also happen to be uninsured drivers while the general class of automobile accident victims is not prevented from the recovery of damages for pain and suffering.” (¶ 8)

FACTUAL BACKGROUND

On December 13, 2011, Morgan Potter rear-ended Rachael Montgomery's vehicle; Potter claimed her brakes failed. Montgomery alleged a severe back injury requiring surgery and sought pain-and-suffering damages, while Montgomery's three-year-old son also was a plaintiff. Montgomery's automobile insurance had lapsed approximately sixty days before the accident, making her uninsured at the time of the collision.

PROCEDURAL HISTORY

Plaintiffs brought an automobile-negligence action seeking, among other damages, compensation for pain and suffering. The trial court granted Plaintiffs' motion for declaratory relief and struck down § 7-116 as an unconstitutional special law. Defendant appealed, the trial court certified the ruling for interlocutory review, and the Supreme Court granted certiorari.

DISPOSITION

affirmed

CASES CITED

- Zeier v. Zimmer, 2006 OK 98, 152 P.3d 861
- Reynolds v. Porter, 1988 OK 88, 760 P.2d 816