

SUPREME COURT OF TEXAS

Texas Department of Transportation v. York

284 S.W.3d 844 (Tex. 2009) · No. No. 07-0743 · Decided May 22, 2009

SUMMARY

The Supreme Court of Texas held that a layer of loose gravel on a roadway is not a "special defect" under Texas Civil Practice and Remedies Code section 101.022(b). The court reversed the court of appeals and dismissed the case because the plaintiff had proceeded under the special-defect standard and failed to obtain required findings for an ordinary premises-defect claim.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Texas
DECIDED	May 22, 2009
DOCKET	No. 07-0743
DISPOSITION	reversed
PROCEDURAL POSTURE	Texas Department of Transportation appealed a judgment entered on a jury verdict in favor of the wrongful-death plaintiffs. The court of appeals held that loose gravel on a roadway was a special defect and affirmed. The Supreme Court of Texas granted rehearing, withdrew its prior opinion, reversed the court of appeals, and dismissed the case.
STANDARD OF REVIEW	Whether a condition is a premises defect or special defect is a question of law reviewed de novo.
PRECEDENTIAL VALUE	published and precedential opinion of the Supreme Court of Texas
PARTIES	Texas Department of Transportation v. Jimmy Don York, James R. Bodiford, Jr., Tonya Bodiford, Shirley Fowler

TOPICS

[premises liability](#) [statutory interpretation](#) [ejusdem generis](#) [wrongful death](#) [duty of care](#)

PRACTICE AREAS

[premises liability](#) [governmental liability](#) [wrongful death](#) [statutory interpretation](#)

QUESTIONS PRESENTED

1. Whether loose gravel covering a roadway is a special defect under Texas Civil Practices and Remedies Code section 101.022(b).
2. Whether the plaintiffs could recover under an ordinary premises-defect theory when the jury charge omitted findings concerning TxDOT's actual knowledge and the plaintiffs' actual knowledge, despite TxDOT's objection.

HOLDINGS

1. A layer of loose gravel on a roadway is not a special defect as a matter of law because it is not of the same kind or class as an excavation or obstruction.
2. The plaintiffs could not recover under an ordinary premises-defect theory because they failed to obtain findings that TxDOT had actual knowledge of the loose gravel and that York lacked actual knowledge of it, after TxDOT objected to the omission of those elements from the jury charge.

KEY QUOTATIONS

“Under the ejusdem generis rule, we are to construe ‘special defect’ to include those defects of the same kind or class as [excavations or obstructions].” (284 S.W.3d at 847)

“A layer of loose gravel on a road does not share the characteristics we have articulated in any of the above cases, and, thus, does not fit within the same class as an obstruction or excavation.” (284 S.W.3d at 848)

FACTUAL BACKGROUND

On October 29, 2003, Rebecca York lost control of her vehicle while crossing approximately one-half to three-quarters inches of loose gravel on Farm-to-Market Road 979 and collided with an oncoming truck, dying at the scene. The day before, a TxDOT crew had applied a spot seal coat consisting of asphalt and gravel. The cause of the excess loose gravel was disputed.

PROCEDURAL HISTORY

Rebecca York's surviving spouse filed a wrongful-death action against TxDOT. The trial court submitted the case under a special-defect instruction, and the jury awarded \$1,033,440, which was reduced to \$250,000 under statutory limitations. After the trial court denied TxDOT's motion for judgment notwithstanding the verdict or a new trial, the court of appeals affirmed. The Supreme Court of Texas reversed and dismissed because loose gravel was not a special defect and the plaintiffs lacked findings necessary to recover under an ordinary premises-defect theory.

DISPOSITION

reversed

CASES CITED

- General Services Commission v. Little-Tex Insulation Co., Inc., 39 S.W.3d 591, 594 (Tex. 2001)

- Texas Department of Transportation v. Jones, 8 S.W.3d 636, 638 (Tex. 1999) (per curiam)
- Wichita Falls State Hospital v. Taylor, 106 S.W.3d 692, 694, 697 (Tex. 2003)
- Hosner v. De Young, 1 Tex. 764, 769 (1847)
- State Department of Highways & Public Transportation v. Payne, 838 S.W.2d 235, 237-39, 241 (Tex. 1992)
- State Department of Highways & Public Transportation v. Kitchen, 867 S.W.2d 784, 786 (Tex. 1993) (per curiam)
- County of Harris v. Eaton, 573 S.W.2d 177, 178-80 (Tex. 1978)
- City of Grapevine v. Roberts, 946 S.W.2d 841, 843 (Tex. 1997) (per curiam)
- City of Dallas v. Reed, 258 S.W.3d 620, 622 (Tex. 2008) (per curiam)
- State v. Rodriguez, 985 S.W.2d 83, 85-86 (Tex. 1999) (per curiam)
- State v. Williams, 940 S.W.2d 583, 585 (Tex. 1996)
- Denton County v. Beynon, 283 S.W.3d 329, 331-32 n. 11 (Tex. 2009)

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