

COURT OF APPEALS OF OREGON

Morast v. James, 87 Or. App. 368

742 P.2d 665 (1987) · No. CA A40260; 16-84-08083 · Decided November 17, 1987

SUMMARY

The Oregon Court of Appeals held that evidence of a plaintiff's failure to wear a seat belt was inadmissible to establish that the plaintiff failed to mitigate injuries caused by the defendant's negligence. The court reversed and remanded after concluding that the trial court improperly submitted the seat-belt defense to the jury.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Rossman, J.; Buttler, P.J.; Warren, J.
JURISDICTION	Oregon
DECIDED	November 17, 1987
DOCKET	CA A40260; 16-84-08083
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from a judgment following a jury trial in a negligence action arising from an automobile accident. The jury found defendant negligent but awarded no damages. Plaintiff challenged the denial of her motion to strike defendant's seat-belt affirmative defense.
STANDARD OF REVIEW	Review of the trial court's ruling on the admissibility and submission of the seat-belt defense; the form of the verdict was within the trial court's discretion.
PRECEDENTIAL VALUE	Published Oregon Court of Appeals opinion
PARTIES	Jacqueline Morast v. Shirley A. James

TOPICS

personal injury negligence evidence comparative fault appellate procedure

PRACTICE AREAS

torts personal injury evidence appellate procedure

QUESTIONS PRESENTED

1. Whether evidence of a plaintiff's failure to wear a seat belt is admissible to show that the plaintiff failed to take reasonable precautions to avoid injuries caused by the defendant's negligence.
2. Whether the trial court erred by submitting the seat-belt affirmative defense to the jury.
3. Whether plaintiff preserved the alleged error despite not stipulating to special interrogatories concerning the extent of her injuries.

HOLDINGS

1. In the absence of legislation to the contrary, evidence that a plaintiff failed to wear a seat belt is not admissible to establish that the plaintiff failed to take reasonable precautions to avoid injuries caused by the defendant's negligence.
2. The trial court erred by submitting defendant's seat-belt defense to the jury.
3. Plaintiff did not waive or fail to preserve the challenge by declining to stipulate to special interrogatories concerning the extent of her injuries.

KEY QUOTATIONS

"We hold that the trial court erred by submitting the "seat belt" defense to the jury." (87 Or. App. at 371-72)

"Traditionally, in the absence of legislation to the contrary, the rule has been, "You take your plaintiffs as you find them."" (87 Or. App. at 371)

FACTUAL BACKGROUND

Morast was injured while a passenger in a van involved in an automobile accident that she alleged was caused by James's failure to stop at a red light. The van had operational seat belts, but Morast did not use one. Defense experts testified that using a seat belt would have reduced or eliminated her injuries.

PROCEDURAL HISTORY

Morast sued James for special and general damages allegedly caused by James's negligent failure to stop at a red light. At trial, the court allowed the jury to consider whether Morast's failure to wear a seat belt contributed to her injuries, and the jury found negligence but awarded no damages. The Oregon Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded after reversal of the trial court's submission of the seat-belt defense to the jury.

CASES CITED

- Madaris v. State of Oregon Highway Division, 80 Or. App. 662, 723 P.2d 1054 (1986)
- Dahl v. BMW, 84 Or. App. 483, 734 P.2d 387 (1987), rev. allowed, 303 Or. 590, 739 P.2d 570 (1987)

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