SUPREME COURT OF VERMONT

Travelers Ins. Co. v. Henry, 2005 VT 68

882 A.2d 1133 (2005) · No. No. 04-174 · Decided June 24, 2005

SUMMARY

The Vermont Supreme Court answered certified questions concerning whether a workers' compensation carrier may obtain reimbursement from, or a future credit against, underinsured motorist benefits recovered under an automobile policy purchased by the injured employee's employer. The court held that, under 21 V.S.A. § 624(e), reimbursement or a future credit is permitted only to prevent a double recovery. The court further held that the employee's economic and noneconomic damages must be determined and that reimbursement may be taken from the economic-damages portion of the UIM award.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Reiber, C.J.; Dooley, J.; Johnson, J.; Skoglund, J.; Allen, C.J. (Ret.), specially assigned
JURISDICTION	Vermont
DECIDED	June 24, 2005
DOCKET	No. 04-174
DISPOSITION	other
PROCEDURAL POSTURE	The United States Court of Appeals for the Second Circuit certified questions concerning the effect of the 1999 amendment to 21 V.S.A. § 624(e) on a workers' compensation carrier's reimbursement and future-credit rights against UIM proceeds recovered under an employer-purchased automobile liability policy.
STANDARD OF REVIEW	Questions of statutory interpretation were reviewed de novo, with the statute enforced according to its plain meaning when the legislative intent was clear.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Vermont answering certified questions.
PARTIES	Travelers Insurance Company v. John P. Henry

TOPICS

workers compensation · uninsured motorist · insurance coverage · subrogation · statutory interpretation

PRACTICE AREAS

workers compensation · insurance · uninsured motorist · statutory interpretation

QUESTIONS PRESENTED

1. Whether 21 V.S.A. § 624(e), as amended in 1999, permits a workers' compensation carrier to obtain reimbursement from UIM proceeds recovered under an automobile liability policy purchased by the injured employee's employer.
2. Whether the workers' compensation carrier may treat the balance of those UIM proceeds as an advance payment or credit against future workers' compensation benefits.
3. How the statutory exception for preventing double recovery applies to an employee's UIM recovery.

HOLDINGS

1. UIM proceeds recovered by an employee under an automobile liability policy purchased by the employer are first-party insurance payments or benefits and are not subject to a workers' compensation carrier's first-dollar reimbursement right.
2. A workers' compensation carrier's right to an offset or credit against future benefits is subject to the same limitation as reimbursement: it exists only to the extent necessary to prevent a double recovery.
3. The nature and extent of the employee's damages must be determined and the first-party award apportioned between economic and noneconomic damages. The workers' compensation carrier may obtain reimbursement only from the economic-damages portion to the extent the employee has already been compensated for those losses.

KEY QUOTATIONS

> *"an employee's recovery of UIM proceeds under an automobile liability policy purchased by his employer is a "first party insurance payment or benefit" that is not subject to the workers' compensation carrier's right to reimbursement except to prevent a double recovery."* (at 1138)

> *"Travelers' right to an offset against the balance of Henry's UIM proceeds for future benefits owed, like its right to recoup benefits paid, exists only to the extent necessary to prevent a double recovery."* (at 1140)

> *"a workers' compensation carrier has no right to reimbursement from, nor a future credit against, UIM proceeds that an employee recovers under an employer-purchased automobile liability policy, except to prevent a double recovery."* (at 1143)

FACTUAL BACKGROUND

John Henry was seriously injured in a two-car automobile accident during the course of his employment. He received workers' compensation benefits from Travelers and recovered $100,000 from the at-fault driver's liability insurer, after which $66,060.75 was paid to Travelers for a lien and an advance payment of permanency benefits. Henry also pursued UIM benefits under a policy he purchased personally and a $400,000 UIM policy purchased by his employer and issued by Travelers.

PROCEDURAL HISTORY

Travelers filed a declaratory judgment action in the United States District Court for the District of Vermont seeking reimbursement from, and a credit against future benefits based on, John Henry's UIM recovery. The district court granted Henry partial summary judgment, later entered judgment awarding him $500,000 in UIM proceeds free of Travelers' claimed reimbursement and credit rights, and dismissed Travelers' complaint. Travelers appealed, and the Second Circuit certified the statutory questions to the Vermont Supreme Court, which reformulated and answered them.

DISPOSITION

other

REMAND INSTRUCTIONS

The reimbursement and future-credit issues must await a determination of the nature and extent of Henry's damages, followed by an allocation of the UIM award between economic and noneconomic damages. The carrier may be reimbursed from the economic-damages portion only to the extent necessary to prevent a double recovery.

CASES CITED

- St. Paul Fire & Marine Ins. Co. v. Surdam, 156 Vt. 585, 595 A.2d 264 (1991)
- Travelers Cos. v. Liberty Mutual Insurance Co., 164 Vt. 368, 670 A.2d 827 (1995)
- Brunet v. Liberty Mutual Ins. Group, 165 Vt. 315, 682 A.2d 487 (1996)
- Merkel v. Nationwide Ins. Co., 166 Vt. 311, 693 A.2d 706 (1997)
- Tarrant v. Dep't of Taxes, 169 Vt. 189, 733 A.2d 733 (1999)
- Cavanaugh v. Abbott Labs., 145 Vt. 516, 496 A.2d 154 (1985)
- State v. Madison, 163 Vt. 360, 658 A.2d 536 (1995)
- Colwell v. Allstate Insurance Co., 2003 VT 5, 175 Vt. 61, 819 A.2d 727
- Reese v. State Farm Mut. Auto. Ins. Co., 285 Md. 548, 403 A.2d 1229 (1979)
- Brown v. Roadway Express, Inc., 169 Vt. 633, 740 A.2d 352 (1999) (mem.)
- State v. Yorkey, 163 Vt. 355, 657 A.2d 1079 (1995)
- Colo. Comp. Ins. Auth. v. Jorgensen, 992 P.2d 1156 (Colo. 2000) (en banc)
- Dearing v. Perry, 499 N.E.2d 268 (Ind. Ct. App. 1986)