SUPREME COURT OF ARKANSAS

Raymond Anthony Monday v. Canal Insurance Company

348 Ark. 435 (2002) (Ark. 2002) · No. No. 01-1038 · Decided May 2, 2002

SUMMARY

The Supreme Court of Arkansas held that Ark. Code Ann. § 23-89-209 requires insurers to offer underinsured-motorist coverage with private passenger automobile liability policies, but not with commercial automobile liability policies. Because Canal issued Alygar Trucking a commercial truck liability policy, the insurer was not required to offer underinsured-motorist coverage. The court affirmed summary judgment for Canal.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin
JURISDICTION	Arkansas
DECIDED	May 2, 2002
DOCKET	No. 01-1038
DISPOSITION	affirmed
PROCEDURAL POSTURE	Monday appealed from the circuit court's grant of summary judgment to Canal in an action seeking underinsured-motorist benefits.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Statutory-interpretation issues are reviewed de novo.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Raymond Anthony Monday v. Canal Insurance Company

TOPICS

uninsured motorist · insurance coverage · statutory interpretation · summary judgment · appellate procedure

PRACTICE AREAS

insurance · insurance coverage · underinsured-motorist coverage · statutory interpretation · civil procedure

QUESTIONS PRESENTED

1. Whether Ark. Code Ann. § 23-89-209 requires an insurer to offer underinsured-motorist coverage when issuing a commercial automobile liability policy.
2. Whether the statute's reference to "private passenger automobile liability insurance" turns on the type of vehicle insured or the type of insurance policy issued.
3. Whether Ark. Code Ann. § 23-89-209(b) requires an insurer to offer underinsured-motorist coverage whenever the insured elects uninsured-motorist coverage.

HOLDINGS

1. Ark. Code Ann. § 23-89-209 does not require an insurer to offer underinsured-motorist coverage when issuing a commercial automobile liability policy.
2. The application of section 23-89-209 depends on the type of insurance policy issued, not on whether the insured vehicle could also be used as a private passenger vehicle.
3. Section 23-89-209(b) requires underinsured-motorist coverage to be offered in coordination with uninsured-motorist coverage only when the policy is one for which underinsured-motorist coverage must otherwise be offered.

KEY QUOTATIONS

> *"Commercial automobile liability insurance policies that cover vehicles used for delivering goods or for other business purposes are not included within the parameters of "private passenger automobile liability insurance.""* (73 S.W.3d at 598)

> *"The statute does not require insurers issuing commercial automobile liability policies to offer underinsured-motorist coverage."* (73 S.W.3d at 599)

FACTUAL BACKGROUND

On August 2, 1999, Raymond Anthony Monday was driving a truck for his employer, Alygar Trucking, Inc., when another vehicle struck him. Monday suffered serious injuries and incurred more than $40,000 in medical expenses; he collected the other driver's $25,000 liability-policy limit but alleged that his damages exceeded that amount. Alygar's policy with Canal was a commercial truck liability policy covering nine trucks and tractors used in Alygar's business and did not include underinsured-motorist coverage.

PROCEDURAL HISTORY

Monday was injured while driving a truck for Alygar Trucking and sought underinsured-motorist benefits under Alygar's commercial automobile liability policy. Canal denied the claim because the policy contained no underinsured-motorist coverage. After both parties moved for summary judgment on the statutory-interpretation issue, the Hot Spring County Circuit Court ruled that Arkansas Code section 23-89-209 did not require Canal to offer such coverage and entered judgment for Canal. The Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Foreman Sch. Dist. No. 25 v. Steele, 347 Ark. 193, 61 S.W.3d 801 (2001)
- City of Barling v. Fort Chaffee Redev. Auth., 347 Ark. 105, 60 S.W.3d 443 (2001)
- Thomas v. Stewart, 347 Ark. 33, 60 S.W.3d 415 (2001)
- Mississippi River Transmission Corp. v. Weiss, 347 Ark. 543, 65 S.W.3d 867 (2002)
- Mayberry v. Flowers, 347 Ark. 476, 65 S.W.3d 418 (2002)
- Madden v. Aldrich, 346 Ark. 405, 58 S.W.3d 342 (2001)
- Fewell v. Pickens, 346 Ark. 246, 57 S.W.3d 144 (2001)
- National Life & Accident Ins. v. Abbott, 248 Ark. 1115, 455 S.W.2d 120 (1970)
- Horn v. Imperial Cas. & Indem. Co., 5 Ark. App. 277, 636 S.W.2d 302 (1982)
- Coleman v. MFA Mut. Ins. Co., 3 Ark. App. 7, 621 S.W.2d 872 (1981)
- Columbia Mut. Ins. Co. v. Estate of Baker, 65 Ark. App. 22, 984 S.W.2d 829 (1999)