SUPREME COURT OF NEW JERSEY

Hardy ex rel. Dowdell v. Abdul-Matin, 198 N.J. 95

965 A.2d 1165 (2009) · No. A-112, September Term 2007 · Decided March 5, 2009

SUMMARY

The Supreme Court of New Jersey held that a passenger injured while occupying a stolen vehicle without the owner's permission was excluded from receiving Personal Injury Protection benefits under N.J.S.A. 39:6A-7(b)(2) and the applicable insurance policy. The Court declined to read a knowledge or scienter requirement into the statutory or policy language and reversed the Appellate Division in part, remanding for entry of judgment for Liberty Mutual on the PIP claim. Two justices dissented.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Wallace, Jr.; Chief Justice Rabner; Justice LaVecchia; Justice Rivera-Soto; Justice Hoens; Justice Long; Justice Albin
JURISDICTION	New Jersey
DECIDED	March 5, 2009
DOCKET	A-112, September Term 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Liberty Mutual appealed from the Appellate Division's reversal of a trial court summary judgment ruling in an insurance coverage action. The Supreme Court granted Liberty's petition for certification; Liberty challenged only the PIP ruling and not the Appellate Division's ruling concerning UM benefits.
STANDARD OF REVIEW	De novo review of the summary judgment ruling and interpretation of the statute and insurance policy.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of New Jersey
PARTIES	Liberty Mutual Insurance Company v. Tyrell Hardy, by and through his guardian ad litem Vera Dowdell

TOPICS

insurance coverage · statutory interpretation · plain meaning rule · appellate procedure · standard of review

PRACTICE AREAS

insurance law · automobile insurance · appellate law

QUESTIONS PRESENTED

1. Whether N.J.S.A. 39:6A-7(b)(2) requires an injured passenger to know that he lacked the vehicle owner's permission before PIP benefits may be excluded.
2. Whether the Liberty Mutual policy's PIP exclusion, which tracked N.J.S.A. 39:6A-7(b)(2), contains an implied scienter or reasonable-belief requirement.
3. Whether the PIP exclusion barred Hardy's claim because he occupied a stolen vehicle without the owner's permission, regardless of his lack of knowledge.

HOLDINGS

1. N.J.S.A. 39:6A-7(b)(2) does not require proof that an injured person knew he lacked the owner's permission to occupy the vehicle. The statute authorizes exclusion of PIP benefits when the person was occupying or operating an automobile without the owner's permission.
2. The policy's PIP exclusion is clear and unambiguous and does not contain an implied reasonable-belief, knowledge, or scienter requirement.
3. Hardy was not entitled to PIP benefits because he occupied the stolen vehicle without the owner's permission, even though he allegedly did not know the vehicle was stolen.

KEY QUOTATIONS

> *"We hold that the unambiguous language in both the statute and the policy make it clear that the plaintiff may not receive PIP benefits because he did not have the permission of the owner to occupy the vehicle in which he was injured."* (198 N.J. 98)

> *"Rather, consistent with the Legislative intent to reduce costs, we hold that the Legislature intended to authorize insurance companies to exclude PIP claims when the injured person did not have the permission of the owner to occupy the vehicle."* (198 N.J. 105-106)

FACTUAL BACKGROUND

Fourteen-year-old Tyrell Hardy accepted a ride in a Subaru driven by Humza Abdul-Matin, unaware that the vehicle had been reported stolen. The vehicle collided with a utility truck, and Hardy suffered a broken leg and other injuries. Hardy sought PIP benefits under his grandmother's Liberty Mutual policy, but Liberty denied coverage because he had occupied the stolen vehicle without the owner's permission.

PROCEDURAL HISTORY

The trial court granted Liberty summary judgment, holding that the policy exclusion barred PIP coverage because Hardy occupied a stolen vehicle without the owner's permission. The Appellate Division reversed and read a scienter requirement into the statute and policy, and also reversed the denial of UM benefits. The Supreme

Court granted certification, reversed the Appellate Division in part as to PIP benefits, and remanded for entry of judgment for Liberty on the PIP claim.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for entry of judgment in favor of Liberty Mutual on the PIP claim.

CASES CITED

- Hardy ex rel. Dowdell v. Abdul-Matin, 397 N.J. Super. 574, 938 A.2d 938 (App. Div. 2008)
- Hall v. Minder, 298 N.J. Super. 243, 689 A.2d 207 (App. Div.), certif. denied, 149 N.J. 408, 694 A.2d 193 (1997)
- DiProspero v. Penn, 183 N.J. 477, 874 A.2d 1039 (2005)
- O'Connell v. State, 171 N.J. 484, 795 A.2d 857 (2002)
- Lozano v. Frank DeLuca Constr., 178 N.J. 513, 842 A.2d 156 (2004)
- President v. Jenkins, 180 N.J. 550, 853 A.2d 247 (2004)
- Zacarias v. Allstate Ins. Co., 168 N.J. 590, 775 A.2d 1262 (2001)
- Princeton Ins. Co. v. Chunmuang, 151 N.J. 80, 698 A.2d 9 (1997)
- Doto v. Russo, 140 N.J. 544, 659 A.2d 1371 (1995)
- Weedo v. Stone-E-Brick, Inc., 81 N.J. 233, 405 A.2d 788 (1979)
- Saffore v. Atl. Cas. Ins. Co., 21 N.J. 300, 121 A.2d 543 (1956)
- State Farm Mut. Auto. Ins. Co. v. Licensed Beverage Ins. Exch., 146 N.J. 1, 679 A.2d 620 (1996)
- Corrigan v. Gassert, 27 N.J. 227, 142 A.2d 209 (1958)