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Anne Arundel County v. Fratantuono

Court of Special Appeals of Maryland - November 1, 2018 - A.3d - 2018 WL 5725830

Pedestrian who sustained injuries when she stepped on water meter lid brought action against county for negligence and negligent supervision of its employees with respect to the construction, installation, and maintenance of the water meter lid.

Following a jury trial, the Circuit Court entered judgment for pedestrian for more than $50,000, and county appealed.

The Court of Special Appeals held that:

- County did not have governmental immunity for injuries to pedestrian;
- Jury instruction on contributory negligence not warranted; and
- Jury verdict was not irreconcilably inconsistent.

In personal injury action brought by pedestrian against county, county did not have governmental immunity for injuries to pedestrian that occurred when she stepped on a water meter lid and fell into a hole beneath the lid while walking on a grassy strip that was set contiguous with and adjacent to both the public road and the public sidewalk; pedestrian testified that she had walked the same path at least 50 times and had observed others walking it as well, and presented pictures and descriptions showing that the strip fell between two paved sidewalk segments that were not otherwise connected.

Jury instruction on contributory negligence not warranted in negligence action against county by pedestrian injured when she fell into hole under water meter lid; evidence indicated pedestrian's injury did not occur while crossing the road, there was no evidence presented to link her injury to the fact she got to the other side of the road by jaywalking, and even had the county been correct that pedestrian was somehow negligent in looking ahead instead of down while walking on grassy area adjacent to roadway, county presented no evidence she would have observed anything amiss with water meter lid had she looked down.

Jury verdict that found pedestrian plaintiff had proved the elements of negligence against county based upon violation of a regulation, but not with respect to the construction, installation, maintenance and replacement of the water meter lid at issue, was not irreconcilably inconsistent; the court instructed the jury on each of pedestrian's theories of negligence, and in light of those instructions, the jury's answers made clear its conclusion that county was negligent, but only because it had violated the requirements of its own design manual.

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