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MUNICIPAL LIABILITY - MISSOURI

Sasnett v. Jons

Missouri Court of Appeals, Western District - April 2, 2013 - S.W.3d - 2013 WL 1296725

Jury instruction that driver owed a higher standard of care than city was not warranted following grant of directed verdict as the jury was repeatedly and correctly advised throughout trial of driver's higher standard of care.

Family of deceased motorist brought a wrongful death action against driver and city after a fatal accident at an allegedly unreasonably dangerous intersection. The circuit court affirmed jury verdict finding driver 10% at fault and city 90% at fault.

On appeal, the family contended that the circuit court failed to instruct the jury that driver owed a higher standard of care than the city owed and this error resulted in the jury allocating a low percentage fault to driver. The family also contended that the court plainly erred in admitting driver's testimony that she has three children and that she understood that the family wanted her to go to jail. The family alleged that this testimony caused the jury to allocate too little fault to driver and to award them less damages.

The court of appeals held that:

- Instruction that driver owed a higher standard of care than city was not warranted following grant of directed verdict as to driver's liability but not as to city's liability; and
- Any error in admitting driver's testimony about her family status, her inability to be a stay-at-home mom due to conditions of probation, and her belief that plaintiffs wanted her to go to jail was not plain error.

An instruction that driver owed a higher standard of care than city was not warranted following grant of directed verdict as to driver's liability but not as to city's liability, despite claim that without the instruction the jury could not properly compare the fault of city, which owed only ordinary care, with the fault of driver, who owed the highest degree of care. The verdict director against driver instructed the jury that driver was liable to plaintiffs as a matter of law and that the jury was required to assess a percentage of fault to driver. The verdict director against city instructed the jury to determine the city's liability under the ordinary care standard, and jury was repeatedly and correctly advised throughout trial of driver's higher standard of care.

There was a substantial amount of evidence showing that the intersection was dangerous, that the city had identified intersection as a high accident location several years before accident, that the city knew the poor visibility of the traffic signals at intersection was primarily to blame for the dangerousness of the intersection, and that city had done nothing to fix it.