

Bond Case Briefs

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LIABILITY - LOUISIANA

Soileau v. Smith True Value and Rental

Court of Appeal of Louisiana, Third Circuit - January 30, 2014 - So.3d - 2011-1594 (La.App. 3 Cir. 1/30/14)

City worker brought action against city, tractor lessor, and lessor's insurer, seeking to recover for injuries sustained when front-end loader detached from tractor and crushed worker's legs at worksite for city project.

The District Court denied insurer's exception of no right of action and entered judgment on jury verdict in favor of worker. Insurer and worker appealed. The Court of Appeal reversed. Worker filed application for a writ of certiorari, which was granted. The Supreme Court of Louisiana reversed and remanded.

On remand, the Court of Appeal held that:

- Jury award of \$7.5 million in general damages to injured worker was not excessive and did not constitute an abuse of discretion;
- Evidence was sufficient to support jury award of \$750,000 in future medical damages to injured worker;
- Jury award of \$7.5 million in general damages to injured worker was not impermissibly tainted by an improper appeal to jury's prejudice against insurance companies; and
- Jury did not manifestly err in allocating fault for accident in amount of 15% to tractor lessor, 15% to city, and 70% of fault to manufacturer of front-end loader and tractor, with which worker had entered into settlement agreement.

Despite conflicting testimony about cause of accident, mechanical engineer qualified as an expert in area of heavy equipment testified that manufacturer bore majority of fault for accident based on design defect in front-end loader. and that product recalls which did not fully address defect. Tractor lessor bore some fault for accident based on improper repair work to tractor and front-end loader. City worker testified that city employees did not lower the bucket of the front-end loader before attempting to remove tractor from worksite, and that lowering bucket would have been a "good idea" that would have reduced risk that front-loader would have detached and fallen off the tractor.