

Bond Case Briefs

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LIABILITY - NEW YORK

Turturro v. City of New York

Supreme Court, Appellate Division, Second Department, New York - April 1, 2015 - N.Y.S.3d - 2015 N.Y. Slip Op. 02754

Mother, on behalf of child who was struck by speeding automobile while riding his bicycle on city street, brought personal injury action against driver, owner of automobile, and city. After jury reached verdict on liability, apportioned fault, and awarded damages, the Supreme Court, Kings County, denied defendants' motions to set aside the verdict on issue of liability, and mother stipulated to reductions in award of future medical expenses and pain and suffering, in order to avoid a new trial. Driver, owner, and city appealed.

The Supreme Court, Appellate Division, held that:

- City's duty to keep its roads and highways in a reasonably safe condition was proprietary in nature, and thus mother did not need to prove existence of special duty owed to child by city;
- City did not conduct adequate studies of speeding that allegedly existed on city street, and thus was not entitled to immunity based on its highway planning decisions;
- Weight of evidence supported jury's conclusion that city was a proximate cause of accident and jury's apportionment of fault between city and driver;
- Interrogatories submitted to the jury did not create substantial confusion for the jury, warranting a new trial;
- Damages of \$6,000,000 for past pain and suffering and \$15,000,000 for future pain and suffering deviated materially from what would be reasonable under the circumstances;
- There was no proof of loss of services, as required to award mother damages for loss of services; and
- Expert testimony supported an award of damages of \$11,500,000 for future medical expenses and \$3,000,000 for future lost earnings.