
IMMUNITY - MAINE

Bean v. City of Bangor

Supreme Judicial Court of Maine - May 31, 2022 - A.3d - 2022 WL 1744191 - 2022 ME 30

Pedestrian’s estate brought action against city, alleging negligence, wrongful death, and loss of consortium after pedestrian died following fall.

The Superior Court denied city’s motion for summary judgment based on immunity under the Maine Tort Claims Act (MTCA). City appealed.

The Supreme Judicial Court held that:

- City had burden of proof as to its affirmative defense of immunity under MTCA, and
- Interlocutory appeal of denial of city’s summary-judgment motion was not available under the “immunity” exception to final judgment rule.

City had burden of proof as to its affirmative defense of immunity under the Maine Tort Claims Act (MTCA), including the burden to establish lack of insurance coverage, in pedestrian’s estate’s negligence action against city arising from pedestrian’s death following fall.

Interlocutory appeal of denial of city’s summary-judgment motion was not available under the “immunity” exception to final judgment rule, which allowed immediate review of denial of a dispositive motion asserting immunity from suit, in pedestrian’s estate’s negligence action against city, even though city’s motion for summary judgment was based on assertion of immunity pursuant to Maine Tort Claims Act (MTCA), where the summary judgment record left unresolved the question of the applicability of insurance to indemnify city for the claims presented in the case, as would determine applicability of immunity under MTCA.

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