

Summary of SC92520, Charzetta Steele v. Shelter Mutual Insurance Company

Appeal from the St. Louis County circuit court, Judge Barbara Wallace
Argued and submitted Nov. 13, 2012; opinion issued May 28, 2013

Attorneys: Steele was represented by David C. Knieriem of the Law Offices of David C. Knieriem in Clayton, (314) 867-5110, and Shelter was represented by Michael S. Hamlin and Seth G. Gausnell of Pitzer Snodgrass PC in St. Louis, (314) 421-5545.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A woman appeals the trial court's grant of summary judgment against her on her claim that her young son, who was injured by an uninsured motorist while a passenger in his daycare provider's van, was an insured under the uninsured motorist provisions of the daycare provider's insurance policy. In a 5-0 decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri affirms the judgment. The uninsured motorist statute requires coverage only of those who are insureds under the liability policy. The policy here does not cover all passengers, and the financial responsibility law requires it to provide coverage only to users of the vehicle to the extent that liability may be imposed on them under Missouri law for damages arising out of such use. The son does not come within this required coverage because his passive use of the van as a passenger did not provide a basis for liability.

Facts: A vehicle traveling at an excessive speed failed to yield and struck the rear end of a daycare van. The driver of the speeding vehicle was uninsured. Following the accident, Charzetta Steele, the mother of a child who was a passenger in the van, sued Shelter Mutual Insurance Co. on her son's behalf. She alleged that Shelter had issued an insurance policy to the daycare that covered the daycare van and included a provision for uninsured motorist coverage. Steele further alleged that her child was an "insured" under the policy, and she requested compensation for the serious injuries the child sustained in the accident. Shelter moved for summary judgment, asserting that the child was not an "insured" under the policy because he was not the policyholder, a relative of the policyholder, listed on the policy or "using" the vehicle at the time of the accident under the policy's definition of "user." Steele agreed that the policy did not cover her child and that he was not a "user" under it, but she argued that the motor vehicle financial responsibility law (MVFRL), section 303.190 et seq., RSMo, read in conjunction with the uninsured motorist law, section 379.203, RSMo, requires that such coverage be provided up to the \$25,000 mandatory minimum limits for uninsured motorist coverage. Following a hearing, the trial court granted summary judgment to Shelter. Steele appeals.

AFFIRMED.

Court en banc holds: The trial court did not err in granting summary judgment to Shelter.

(1) Section 379.203.1 unambiguously requires every automobile liability insurance policy to provide uninsured motorist coverage for the protection of persons “insured thereunder” – that is, insured under the liability policy – who legally are entitled to recover damages from the uninsured vehicle owner or operator. If a person is insured under the liability policy for the vehicle, then, as a matter of law, that person also must receive uninsured motorist coverage under the policy if the passenger legally is entitled to recover damages from the person owning or operating the uninsured vehicle. The uninsured motorist provision of the Shelter policy does not include Steele’s son as an “insured” because he is not the policyholder, a relative of the policyholder or an additional listed insured, and he does not come within the policy’s definition of a “user” of the vehicle. The liability policy defines “use” to include only those persons “physically controlling, or attempting to physically control” the vehicle. Steele’s child, while a passenger in the vehicle, was not operating or otherwise physically controlling or attempting to physically control it.

(2) Under section 303.190.2(2) RSMo, those using a motor vehicle are required to be insured under a liability policy only “against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use” of the vehicle. Missouri law does impose liability against passengers for negligent operation of a vehicle, but only when the passenger demonstrates a “realistic right of control” of the vehicle. Steele’s child’s use of a vehicle as a mere passenger, therefore, could not result in “liability imposed by law for damages.” For this reason, the MVFRL law does not require that a provision insuring him be read into the liability policy. This Court is not free to broaden that coverage to include passive passengers like the son; that matter is for the legislature.