

Rhode Island Superior Court decision clarifies the Rhode Island Wrongful Death Statute

By:



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Justice Gallo of the Rhode Island Superior Court recently issued a decision that helps resolve a longstanding ambiguity in the Wrongful Death Act. R.I. Gen. Laws § 10-7-2 provides that “[w]henver any person or corporation is found liable under §§ 10-7-1 -- 10-7-4 he or she or it shall be liable in damages in the sum of not less than two hundred fifty thousand dollars.” Some practitioners have taken the position that each defendant, if found liable for the death of the plaintiff’s decedent, is individually required to pay the \$250,000 minimum. Justice Gallo rejected this interpretation of the statute in [O’Connell and Roberti v. Walmsley](#).

The [O’Connell](#) matter arose out of a fatal road traffic accident. The decedent, Brendan O’Connell Roberti was a passenger in a car being driven by Jason Goffe. Mr. Goffe was racing with Mr. Michael Petrarca along the New London Turnpike when he lost control of his car and veered into the wrong lane, where his vehicle struck another car which was travelling in the opposite direction and driven by Mr. William Walmsley.

Brendan’s parents filed suit against Walmsley; Donald Goffe, Jason Goffe’s father and the owner of the vehicle being driven by Jason Goffe; and GEICO, Goffe’s insurer. Walmsley filed a third-party action against Michael Petraraca and Tapco, Inc., the owner of the vehicle being driven by Mr. Petrarca. Prior to trial, Plaintiffs and Goffe, Geico, Petrarca and Tapco settled. The total amount received by Plaintiffs in settlement was \$395,000. Defendant Walmsley did not settle.

At trial, the jury found for Plaintiffs, assessing damages at \$10,000. Walmsley was found to be at fault. The jury assessed Walmsley's contribution to the accident at 3%. Plaintiffs filed a motion under Rule 59 of the Rules of Civil Procedure seeking a new trial and requesting an additur to bring damages up to \$250,000, the statutory minimum pursuant to R.I. Gen. Laws §10-7-2. Walmsley filed a motion for judgment as a matter of law.

Walmsley's motion was granted and an appeal was taken to the Supreme Court. The Supreme Court reversed the trial justice's decision granting Walmsley's motion for a judgment as a matter of law and remanded the case to the Superior Court. Plaintiffs immediately moved for entry of judgment against Walmsley in the amount of \$250,000.¹ Walmsley filed a motion for summary judgment arguing that he was not liable in any amount because the jury verdict had been fully satisfied by virtue of Plaintiffs' settlement with Goffe, Geico, Petrarca and Tapco.

Plaintiffs argued for "a literal and mechanical application of §10-7-2 ... [contending] that because Walmsley was found liable for a wrongful death he must be liable for a judgment of \$250,000 at a minimum." Judge Gallo rejected this argument. Relying on long-standing principles of law that courts will not interpret statutes literally when doing so would lead to absurdity, Judge Gallo reasoned that:

Based on the remedial and compensatory nature of the statute and damages principles generally, it is clear that the purpose of the

¹ The trial justice had conditionally granted their motion for an additur in the event the Supreme Court reversed his decision granting Walmsley's motion for judgment as a matter of law.

minimum damages requirement in §10-7-2 is to provide a fixed, baseline recovery amount for any wrongful death plaintiff.

Judge Gallo further noted that adopting the Plaintiffs' view of §10-7-2 would result in a recovery "directly proportionate to the number of tortfeasors." Judge Gallo found that this factor had "no bearing on the losses flowing from the decedent's death." He explained that "awarding damages in accordance with the number of tortfeasors involved in a death does not advance the statute's compensatory and remedial purposes."

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Although Judge Gallo addressed an issue of first impression in Rhode Island state courts, his decision relied heavily upon, and closely followed, an opinion issued by Judge Smith of the Rhode Island Federal District Court in Petro v. Town of West Warwick, 889 F. Supp. 2d 292, 343-345 (D.R.I. 2012). While neither decision is technically binding, the uniformity of these opinions adds significant weight to the argument that a plaintiff in a wrongful death action is not entitled to obtain \$250,000 from each tortfeasor.