

California courts establish “extreme caution” as a duty of care

The following is an exceptionally important California case. Its significance is that it changes the “standard of care” of truck and bus drivers based on the interpretation by a California Court of a federal regulation that applies to trucks and buses.

In the case of *Weaver v. Chavez*, 133 Cal.App.4th 1350, 35 Cal. Rptr.3rd 514 (2005) the Second Appellate District, Division Four, sitting in Los Angeles, published an opinion establishing that “Extreme caution in the operation of a commercial motor vehicle shall be exercised when hazardous conditions exist . . .”

This precedent raises the duty of care of the operator of a commercial vehicle to extreme caution when hazardous conditions, such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction.

The incident involved heavy traffic on a local freeway in Los Angeles. Traffic conditions were moderate to heavy, and it was raining. The plaintiff was operating a passenger vehicle in lane number 4 of the freeway. Another passenger vehicle merged onto the freeway on plaintiff’s right. That vehicle was traveling too fast for conditions, lost control, and spun into the plaintiff’s car and into the third lane of travel where it came to rest. The commercial truck driver was traveling in the same direction on the freeway in the third lane. The plaintiff’s vehicle also spun out and into the third lane, and stopped instantly 120 feet in front of the tractor-trailer. The truck driver braked and caused the truck to jackknife and strike the plaintiff’s vehicle. The plaintiff sustained severe injuries.

It is undisputed that it was raining and wet at the time of the accident. The truck driver admitted he was traveling at 56 miles an hour, and given the wet road conditions, going too fast to stop in time to avoid hitting the plaintiff’s car. There was a contradiction in the evidence as to what speed the truck driver should have maintained under the conditions to avoid the accident.

Plaintiff’s counsel requested the court to instruct the jury in accordance with 49 Code of Federal Regulations part 392.14 that the standard of care is “extreme caution in the operation of a tractor-trailer rig.” The trial court refused the request and instructed a jury using standard negligence instructions; that negligence is the failure to use reasonable care and failure to do something that a reasonably careful person would do in the same situation.

The court also instructed on the basic speed law which provides that no person shall drive a motor vehicle faster than is reasonable or prudent given due regard for the weather and other conditions. The jury returned a defense verdict.

However, the Court of Appeal reversed the decision, indicating the standard of diligence is different between the negligence standard and that consistent with the Code of Federal Regulations. The court maintained that the basic speed law required only that a driver shall not drive at a speed “greater than is reasonable or prudent having due regard for weather . . .” The Court of Appeal pointed out that the Federal Standard requires the driver of a commercial vehicle to use “extreme caution” to reduce speed when hazardous conditions exist.

The effect of this decision is to establish a higher standard of care for the operators of tractor-trailer rigs and buses in adverse weather conditions than any other vehicle operator on the same road at the same time. A petition for review of the decision to the California Supreme Court has been filed.

Motorcoach carriers should be aware of this much higher standard of vehicle operation expected of their drivers in California. Attention must be given in training and supervising drivers that when the weather is rainy, foggy, or anything less than perfect, and the road conditions are anything other than dry, they must increase their vigilance, and slow down even more than they would normally in such conditions. This case holds commercial vehicles such as motorcoaches responsible to a higher standard even if they are not the primary cause of the accident, and other non-commercial vehicles are not held to the same standard.

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