

TOP FIVE 2018

Each year at OJEN's Toronto Summer Law Institute, a judge from the Court of Appeal for Ontario identifies five cases that are of significance in the educational setting. This summary, based on these comments and observations, is appropriate for discussion and debate in the classroom setting.

RANKIN (RANKIN'S GARAGE AND & SALES) v J.J., 2018 SCC 19

Date released: May 11, 2018

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/17085/index.do>

Facts

In July 2006, two young men – J, age 15 and C, age 16 – were drinking alcohol and smoking cannabis at C's mother's house. Some of the alcohol was provided by C's mother. C and J left the house sometime after midnight and walked around their neighbourhood looking to steal items from unlocked cars. They came upon Rankin's Garage, a local car repair shop and discovered some cars unlocked with the keys inside. C convinced J to join him in stealing one of the cars, with C driving the car and J sitting in the passenger seat. Shortly after stealing the car, C crashed it on the highway and J suffered a catastrophic brain injury.

Procedural History

Acting through a litigation guardian, J sued Rankin's Garage, C and C's mother for the tort of negligence. In tort law, to be negligent means that if you owe a duty of care to someone else and you fail to properly meet your responsibility, you are

responsible for the harm another person suffers because of your carelessness. If one party owes a duty of care to another party, then the person owing a duty of care must take reasonable steps to avoid reasonably foreseeable harm to the other party.

The question as to whether there was negligence and who was responsible for J's injuries went to trial with a jury. The jury decided that Rankin's Garage was 37% responsible, C was 23% responsible and C's mother was 30% responsible and J himself was 10% responsible for his injuries. During the trial, the judge decided that Rankin's Garage owed a duty of care to J. This means that the judge found it was reasonably foreseeable that leaving cars unlocked with the keys inside it could result in someone stealing the car and becoming injured. Therefore, Rankin's Garage could be held responsible for the injuries J suffered.

Rankin's Garage appealed the decision to the Court of Appeal for Ontario. The appellate court upheld the trial judge's

decision. Rankin's Garage appealed to the Supreme Court of Canada (SCC).

Issues

Was Rankin's Garage partly responsible for J's injuries? Within this question, the Court had to decide:

1. Did Rankin's Garage owe a duty of care to J?
2. Was the harm to J reasonably foreseeable, meaning could it have been expected?

Decision

Rankin's Garage did not owe a duty of care to J and was not responsible for his injuries.

Ratio

A business owner cannot reasonably expect that intoxicated minors will attempt to steal unlocked cars. Because the harm is not reasonably foreseeable, the business does not owe a duty of care to minors who may steal property from the business and be injured.

Reasons

When deciding whether a party owes a duty of care to another, the question is not whether another person may be harmed but whether the specific type of harm suffered can be expected. So in

this case, the question was not whether it is foreseeable that an unlocked car may be stolen. Instead the question is whether it can be expected that leaving a car unlocked will lead to the car being stolen by intoxicated minors and driven dangerously so one of those minors will be injured. After reviewing the evidence, the SCC held that such a scenario was not reasonably foreseeable.

The Court also considered whether the garage was legally required to lock its vehicles. The Court noted that unlike something like a loaded gun, vehicles are not inherently dangerous. Garages are generally not considered negligent for leaving vehicles unlocked and the fact that minors may be injured (like J was) doesn't create an obligation to lock vehicles.

Because the risk of harm was not foreseeable, and garages are not required to secure their vehicles, Rankin's Garage did not owe a duty of care to J and was not responsible for J's injuries.

In a dissenting opinion, Justice Brown held that it was reasonably foreseeable that someone would steal the car and might be injured as a result. He would have found that Rankin's Garage owed a duty of care to J and was responsible for some of his injuries.

DISCUSSION

1. In this case J suffered a life-altering injury and required expensive medical care for the rest of his life. Who do you think, instinctively, should be responsible for his injury? Do you think that the law, as stated in this case, reflects your instincts?
2. Using percentages, as the trial judge did, assign a share of the responsibility for J's injuries to each party: J, C, C's mother and Rankin's Garage.
3. Is it inherently dangerous to leave an unlocked vehicle with the keys inside?
4. Should the outcome be different based on the age of the person who stole the car?
5. What other kinds of businesses might have to consider issues of duty of care and the risk of harm?