

A Dangerous Situation

This month, we continue our two-part discussion of cases assessing the level of care exercised by motorists who happened to be operating old vehicles. Although in neither case did the court specifically focus on the age of the vehicles, their age may have played in a role in the mechanical failures involved. The cases serve as a cautionary tale to prudent old car owners.

Our second case is *Doyle v. McKinney*, decided on April 7, 1999, by the Court of Appeal of Louisiana. According to the Court, on an April afternoon, Jason Doyle was traveling west in the extreme right-hand lane of I-610. At a point somewhere between the Franklin Avenue on-ramp and the Elysian Fields exit, Doyle noticed an abandoned 1974 Ford pickup truck in his lane. Paul Jones had left the truck at this location at least an hour and a half earlier after the truck's battery had apparently gone dead. (Jones contended he left the truck to seek assistance at a friend's house.)

The hazard lights on the truck did not work; Jones had made no attempt to warn other motorists of the stalled vehicle. However, Doyle was able to stop his vehicle some 15 to 20 feet behind the truck. Doyle was waiting for a chance to move into the adjacent lane when he was struck from behind by a car driven by Oscar McKinney.

Doyle and his mother (who owned the car Doyle was driving) sued McKinney, Jones, and others. The trial court found in favor of the plaintiffs. The court apportioned 75 percent of the fault to Jones and 25 percent of the fault to McKinney. The defendants appealed.

The Court of Appeal affirmed the ruling for the Doyles. It began its analysis of whether Jones was negligent by reviewing a Louisiana statute providing that "the driver of any vehicle which is disabled while on the main traveled portion of a highway so that it is impossible to avoid stopping and temporarily leaving the vehicle in that position . . . shall remove the vehicle as soon as possible, and until it is removed it is his responsibility to protect traffic."


"When Mr. Jones' pickup truck broke down, he left it in the right-hand lane of I-610 for at least an hour and a half while he went to look for help. Mr. Jones made no attempt to warn other motorists of the peril on the road ahead of them. These are not the actions of the reasonably prudent person in this situation. Mr. Jones could have called a tow truck as soon as he was able to get to a phone. He did not do this. Mr. Jones could have taken one of his vehicle's floor mats and flagged oncoming vehicles away from the broken down pickup. He did not do this either."

"Mr. Jones' assertion that he did not violate [the statute]

is simply not correct. In [a prior case], this Court affirmed the finding of negligence on the part of the driver of a broken down truck. That driver's vehicle lost a wheel while descending a bridge at dusk. His taillights were on and he made some attempt to alert other motorists by waving a handkerchief close behind the van. Nevertheless, it was found that he violated [the statute] because the precautions he took were not adequate. In the case sub judice [presently before the Court], Mr. Jones took no precautions. Accordingly, logic dictates that Mr. Jones was negligent."

"The accident in the instant case would not have occurred but for the negligence of Mr. Jones. [I]t is implausible that the trial court erred in finding Mr. Jones negligent and assigning him the greater portion of fault."

Turning to McKinney's negligence, the court observed that "[i]f a rear-end collision occurs, the following motorist is presumed negligent . . . However, a person who is caught in a sudden emergency, not of his own making, is not expected to exercise the same degree of care and caution as a person who has ample opportunity for the full exercise of judgment or reason."

"In the instant case, Mr. McKinney collided with the rear end of Mr. Doyle's car which was stopped because of the presence of Mr. Jones' broken down pickup truck. Mr. McKinney's failure to keep a proper lookout and maintain control of his vehicle was a cause in fact of the accident. However, it was not the principal cause. The principal cause of the accident was the obstruction of the road created by Mr. Jones' broken down pickup truck. This does not excuse Mr. McKinney from the consequences of his negligence but does lessen the severity . . . We find no error in the trial court's finding Mr. McKinney negligent and apportioning 25 percent fault for the accident to him." 

Lawrence Savell is Counsel at the law firm Chadbourne & Parke LLP in New York City. This column provides general information and cannot substitute for consultation with an attorney. Additional background on this and prior Old Cars in Law articles can be found on-line at www.lawrencesavell.com
