SPC Guiding Case No. 24: Rong Baoying v. Wang Yang and the Jiangyin Sub-branch of Yongcheng Property Insurance Co., Ltd. (Motor Vehicle Traffic Accident Liability Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Discussed and adopted by the Judicial Committee of the Supreme People's Court; issued on January 26, 2014.

Keywords

Civil / traffic accident / fault-based liability

Holding

Where a victim of a traffic accident is without fault, the influence of the victim's physical constitution on the consequences of the damage does not constitute a statutory circumstance for reducing the tortfeasor's liability.

Basic Facts

The plaintiff Rong Baoying alleged that the defendant Wang Yang, while driving a sedan, scraped against her and caused her injury. The accident was determined by the Binhu Brigade of the Traffic Patrol Police Detachment of the Wuxi Municipal Public Security Bureau of Jiangsu Province ("the Binhu Traffic Police Brigade") as follows: Wang Yang bore full responsibility for the accident, and Rong Baoying bore no responsibility. The plaintiff requested the two defendants below to compensate RMB 30,006 for medical expenses, RMB 414 for in-hospital meal allowance, RMB 1,620 for nutrition expenses, RMB 27,658.05 for disability compensation, RMB 6,000 for nursing expenses, RMB 800 for transportation expenses, and RMB 10,500 for emotional distress damages, and to bear the litigation costs and appraisal costs of the case.

The defendant, the Jiangyin Sub-branch of Yongcheng Property Insurance Co., Ltd. ("Yongcheng Insurance"), argued that it had no objection to the course of the accident or the liability determination, and was willing to compensate within the limits of compulsory traffic accident liability insurance; it had no objection to the medical expenses of RMB 30,006 and the in-hospital meal allowance of RMB 414. Since the appraisal opinion stated that "the degree of injury participation was assessed at 75%, with the factor of her personal constitution accounting for 25%," the disability compensation should be multiplied by the injury participation coefficient of 0.75, and it acknowledged RMB 20,743.54. It acknowledged RMB 1,350 for nutrition expenses, RMB 3,300 for nursing expenses, and RMB 400 for transportation expenses, and did not bear the appraisal costs.

The defendant Wang Yang argued that he had no objection to the course of the accident or the liability determination; the plaintiff's losses should be compensated by Yongcheng Insurance on a priority basis within the limits of compulsory traffic accident liability insurance; he requested the court to rule on the appraisal costs in accordance with law, agreed with the insurance company's opinion on the remaining items, and stated that he had already compensated the plaintiff RMB 20,000.

The court found upon trial: At about 14:45 on February 10, 2012, Wang Yang, driving a sedan with license plate number Su MT1888 southbound on Lihu Avenue in Binhu District, Wuxi, Jiangsu Province, reached the crosswalk at the intersection of Lihu Avenue and Datong Road, where he struck and injured the pedestrian Rong Baoying. On February 11, the Binhu Traffic Police Brigade issued a "Road Traffic Accident Determination," determining that Wang Yang bore full responsibility for the accident and Rong Baoying bore no responsibility. On the day of the accident, Rong Baoying was sent to hospital for treatment, incurring

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medical expenses of RMB 30,006, of which Wang Yang advanced RMB 20,000. During her treatment and recovery, Rong Baoying hired a domestic service worker at RMB 2,200 per month. The sedan with license plate number Su MT1888 was covered by motor vehicle traffic accident liability compulsory insurance with Yongcheng Insurance, with the insurance period running from 00:00 on August 17, 2011 to 24:00 on August 16, 2012. The plaintiff and defendants unanimously confirmed that Rong Baoying's medical expenses were RMB 30,006, the in-hospital meal allowance was RMB 414, and the emotional distress damages were RMB 10,500.

At Rong Baoying's application, the Wuxi Hospital of Integrated Traditional Chinese and Western Medicine judicial appraisal institution issued an appraisal concluding that: 1. The disability grade of Rong Baoying's left distal radius fracture was assessed as Grade 10, and the disability grade of her left lower limb injury was assessed as Grade 9; the degree of injury participation was assessed at 75%, with the factor of her personal constitution accounting for 25%. 2. Rong Baoying's period of lost work was assessed at 150 days, the nursing period at 60 days, and the nutrition period at 90 days. On this basis, the first-instance court confirmed the disability compensation of RMB 27,658.05 with a 25% reduction to RMB 20,743.54.

Judgment

On February 8, 2013, the Binhu District People's Court of Wuxi, Jiangsu Province, rendered Judgment (2012) Xi Bin Min Chu Zi No. 1138: (1) the defendant Yongcheng Insurance shall compensate Rong Baoying a total of RMB 45,343.54 for medical expenses, in-hospital meal allowance, nutrition expenses, disability compensation, nursing expenses, transportation expenses, and emotional distress damages within ten days of the judgment taking effect; (2) the defendant Wang Yang shall compensate Rong Baoying a total of RMB 4,040 for medical expenses, in-hospital meal allowance, nutrition expenses, and appraisal costs within ten days of the judgment taking effect; and (3) dismissing the plaintiff Rong Baoying's other claims. After the judgment was pronounced, Rong Baoying appealed to the Wuxi Intermediate People's Court of Jiangsu Province. On June 21, 2013, after trial, the Wuxi Intermediate People's Court rendered Civil Judgment (2013) Xi Min Zhong Zi No. 497, on the ground that the original trial had erred in applying the law: (1) revoking the Judgment (2012) Xi Bin Min Chu Zi No. 1138 of the Binhu District People's Court of Wuxi; (2) the defendant Yongcheng Insurance shall compensate Rong Baoying RMB 52,258.05 within ten days of the judgment taking effect; (3) the defendant Wang Yang shall compensate Rong Baoying RMB 4,040 within ten days of the judgment taking effect; and (4) dismissing the plaintiff Rong Baoying's other claims.

Reasoning

The effective judgment held: Article 26 of the Tort Liability Law of the People's Republic of China provides: "Where the infringed party is also at fault for the occurrence of the damage, the liability of the tortfeasor may be reduced." Article 76, paragraph 1, item (2) of the Road Traffic Safety Law of the People's Republic of China provides that where a traffic accident occurs between a motor vehicle and a non-motor vehicle driver or pedestrian, and the non-motor vehicle driver or pedestrian is not at fault, the motor vehicle party shall bear liability for compensation; where there is evidence proving that the non-motor vehicle driver or pedestrian was at fault, the motor vehicle party's liability for compensation shall be appropriately reduced according to the degree of fault. Therefore, in calculating whether disability compensation should be deducted in a traffic accident, the analysis should be based on whether the victim was at fault for the occurrence or expansion of the loss. In this case, although the plaintiff Rong Baoying's personal physical constitution had a certain influence on the occurrence of the consequences of the damage, this was not fault as defined by the Tort Liability Law and other laws. Rong Baoying should not bear corresponding responsibility herself merely because her personal physical constitution had a certain influence on the disability caused by the traffic accident. The original judgment's deduction of the disability compensation on the ground that the disability grade appraisal conclusion assessed the influence of Rong Baoying's personal physical constitution as "degree of injury participation of 75%" was an error in applying the law and should be corrected.

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From the perspective of the causal relationship between the victim's injury and the consequences of the damage in the traffic accident, the accident was caused by the tortfeasor Wang Yang's failure to fulfill the duty of safety and attention when driving a motor vehicle across a crosswalk, striking the pedestrian Rong Baoying; the consequences of the damage were caused by Rong Baoying being struck by the motor vehicle and falling, sustaining fractures. The accident liability determination found that Rong Baoying bore no responsibility for the accident, and she was without fault for both the occurrence of the accident and the occurrence of the consequences of the damage. Although Rong Baoying was advanced in age, her age-related osteoporosis was merely an objective factor in the consequences of the accident and bore no legal causal relationship. Therefore, the victim Rong Baoying was not at fault for the occurrence or expansion of the damage, and there were no statutory circumstances for reducing or exempting the tortfeasor's liability for compensation. At the same time, motor vehicles shall comply with the general traffic rules and social morality of civilized driving and yielding to pedestrians. The accident in this case occurred on a crosswalk; Rong Baoying, walking normally, could not foresee the event of being struck by a motor vehicle, while Wang Yang, driving a motor vehicle, failed to slow down and yield to pedestrians as required by law when passing the crosswalk, causing the accident. Therefore, the motor vehicle party shall bear all liability for compensation arising from the accident in accordance with law.

Under the relevant provisions of China's Road Traffic Safety Law, where a motor vehicle traffic accident causes personal injury or death or property loss, the insurance company shall compensate within the liability limits of motor vehicle third-party liability compulsory insurance. China's compulsory traffic accident liability insurance legislation does not provide that, in determining compulsory traffic accident liability insurance liability, a corresponding deduction should be made based on the influence of the victim's physical constitution on the consequences of the damage, and the insurer's grounds for exemption are limited to the circumstance where the victim intentionally caused the traffic accident. Even where the insured motor vehicle is without fault, the insurance company shall still compensate within the no-fault limits of compulsory traffic accident liability insurance. Therefore, all losses of the victim that conform to the compensation items and standards prescribed by law fall within the scope of compensation of compulsory traffic accident liability insurance, and there is no legal basis for determining damages liability and compulsory traffic accident liability insurance liability by reference to the "degree of injury participation."

Relevant Legal Provisions

Article 26 of the Tort Liability Law of the People's Republic of China.

Article 76, paragraph 1, item (2) of the Road Traffic Safety Law of the People's Republic of China.

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