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THE ADVOCATE

BATON ROUGE, LOUISIANA

Court clarifies lawsuit-damages cap

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NEW ORLEANS — The Louisiana Supreme Court has ruled that the state Department of Transportation and Development is partially liable for a 1998 traffic accident in Baker that killed a Zachary High School honor graduate.

The crash occurred at La. 19 and Groom Road.

The Supreme Court also ruled Wednesday that Nancy and Ronny Lockett, the parents

of 18-year-old Katy Lockett, were properly awarded \$500,000 each in general damages for the wrongful death of their daughter.

The high court said it heard the case last year primarily to resolve a split among Louisiana's appeals courts over whether a \$500,000 cap on general damages in wrongful death lawsuits against the state is applied "per death victim" or "per plaintiff."

The ceiling on general damages assessed against the state for wrongful death suits was first enacted in 1985. The justices, by a 6-1 vote, ruled Wednesday that the cap is to

be applied "per plaintiff" for the wrongful death of any one person. Justice Jeffrey Victory cast the lone dissent, saying "it is clear the Legislature intended for the \$500,000 limit to be applied regardless of the number of claimants."

"One would wonder why, in 1985, the Legislature, in an attempt to protect the public fisc, would bother to place a \$500,000 cap on an individual action when the awards given prior to that time for a wrongful death action were rarely, if ever, in excess of half that amount," he wrote.

Louisiana Revised Statute 13:5106(B)(2) controls the amount of general damage awards for wrongful death actions brought against a state entity. The statute originally read, "In any suit for wrongful death, the total amount recoverable, exclusive of medical care and related benefits and loss of earnings or loss of support, and loss of future support, shall not exceed five hundred thousand dollars."

It was amended in 1996 to read, "In all suits

for wrongful death of any one person, the total amount recoverable, exclusive of property damages, medical care and related benefits and loss of earnings or loss of support, and loss of future support, shall not exceed five hundred thousand dollars."

Justice Jeannette Theriot Knoll, who authored the Supreme Court's ruling, said the Legislature's intent "does not clearly require a 'per death victim' construction over a 'per plaintiff' construction, especially given the conflicting interpretations of this provision in the circuit courts."

In 1993, she said, the 3rd Circuit Court of Appeal applied a "per plaintiff" construction in *Ryland v. Liberty Lloyds Insurance Co.* and the 1st Circuit Court of Appeal applied the same construction in *Ly v. State Through Dept. of Public Safety and*

Corrections." In 2002, the 3rd Circuit applied a "per victim" construction in another case.

"We note with significance that when the Legislature amended this statute in 1996, the *Ly* and *Ryland* decisions applying the wrongful death cap to each plaintiff had been rendered and were final in 1994," Knoll said. "If the Legislature disagreed with these court decisions ... it could have said so and could have changed the wording of the statute to restrict the total amount recoverable to one cap for all claims. It did not."

Katy Lockett was a passenger in a southbound car that tried to turn east, or left, onto Groom Road from La. 19 and was hit broadside on the passenger side by a northbound pickup.

The Locketts' attorney said the driver of the car did not see the truck in the outside lane because another

oncoming car was stopped to turn west onto Groom. The state said the driver of the car in which Lockett was riding could have waited for a green arrow before turning or inched forward until her vision was clear.

A jury found the state DOTD 65 percent liable and the driver of the car carrying Lockett 35 percent liable.

The 1st Circuit affirmed that finding, saying a blind spot was created at the intersection in the outside lanes when two opposing vehicles were each stopped and waiting to make left turns onto Groom from the north and south inside lanes.

"This 'cone of obscurity' coupled with the permissive green globe lulled the left-turning driver into a false sense of being able to safely negotiate the left turn when in fact it is a perilous maneuver," Knoll wrote.

She said the DOTD had been aware of the flawed condition of the intersection and its history of a high accident rate as a result of the blind spot.

In the past, turning lanes have been planned for the La. 19-Groom Road intersection but no improvements have been made at the site to date.

A jury in 2001 awarded \$500,000 in general damages to each of Lockett's parents, as well as \$100,000 for medical expenses and \$10,000 for funeral expenses. The trial judge reduced the medical expense award to \$27,106 and the funeral expense award to \$7,991.

Leonard Cardenas III, who represents the Locketts, said Thursday the state's liability totals about \$700,000. The driver of the car carrying Lockett will not have to pay her share of the damages because no claim was brought against her.

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