

Teen Steals Car and Sues for Injuries

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The case of *J.J. v. C.C.*, 2016 ONCA 718, demonstrates that a plaintiff can recover damages even if he or she engages illegal or immoral conduct.

Two teenagers, 15 and 16 years old, stole a car from a car repair and sales business, Rankin's Garage, located in a small town in Ontario. The teenagers had been drinking alcohol and smoking marijuana. The car was unlocked with the keys in the ashtray. The plaintiff and his friend took the car for a joyride. The plaintiff's friend, who did not have a driver's license, did the driving. They were involved in a single vehicle accident, and the plaintiff sustained a significant brain injury.

At trial, the jury found Rankin's Garage 37% liable. The driver was found 23% liable and the plaintiff 10%. The driver's mother was found 30% liable for supplying beer to the teenagers earlier in the evening.

Rankin's Garage appealed. One argument raised by Rankin's Garage was that it would be "offensive to society's standards" for it to be found liable for the injuries of someone who participated in a theft. The sentiment underlying this position is that wrongdoers should be responsible for the damage they may cause to themselves by their wrongdoing. The Court of Appeal rejected this and other arguments, and the appeal was dismissed.

The Court held that Rankin's Garage owed the plaintiff a duty of care. There was evidence of prior thefts from Rankin's Garage. It was foreseeable that minors might take

a car from Rankin's Garage that was made easily available to them. Further, the Court said it is a matter of common sense that minors might harm themselves in joyriding, especially if they are impaired by alcohol or drugs. The Court stated it is well established that the duty of care operates independently of the illegal or immoral conduct of an injured party.

The Supreme Court of Canada has taken an interest in this matter and recently granted Rankin's Garage leave to appeal. Leave to appeal in civil cases is rarely granted. The fact that the Supreme Court has agreed to hear the appeal suggests that it does not agree with the Court of Appeal's conclusions on the duty of care or with the jury's apportionment of liability.

As it currently stands, this case demonstrates that a property owner must protect against foreseeable risks, including actions by trespassers and others engaged in illegal activity.