

# Who's Liable for Injury in Accident Caused by Worker's Speeding?



## SITUATION

A transportation company employs workers to carry cargo for third party customers. It leases vehicles for use by its workers. Two workers use a leased truck to transport cargo for a customer as part of their work duties. While transporting this cargo, the driver exceeds the speed limit, loses control of the truck and crashes. The co-worker's injured in the crash and sues the driver, their employer and the leasing company. A highway safety law in the jurisdiction holds the owner of a vehicle liable for the negligence of an individual operating the vehicle.

## QUESTION

**Who's liable for the worker's injuries'**

- A. The driver, because he was speeding and thus negligent.
- B. The employer, because the injuries occurred during the course of employment.
- C. The leasing company, because it owned the truck.
- D. No one, because workers' comp law bars *any* claims arising

out of an incident occurring during the course of a worker's employment.

ANSWER:

**C. The leasing company's liable for the worker's injuries under the highway safety law, which holds vehicle owners liable for negligence of an individual operating the vehicle.**

## **EXPLANATION**

This hypothetical is based on an Ontario court case involving a worker who was injured while a passenger in a leased work vehicle driven by a co-worker. The driver's speeding caused the accident in which the worker was hurt. The worker sued the driver, employer and leasing company that owned the truck. The court dismissed the claims against the co-worker and employer as barred by workers' comp law. But it wouldn't dismiss the claims against the leasing company, which argued that it couldn't be held 'vicariously liable' for the driver's negligence. Vicarious liability arises when the law holds one party responsible for the negligence or actions of another based on a special relationship between them, such as an employment relationship. The court noted that the highway safety laws specifically imposed liability on the owners of vehicles, such as the leasing company, for any loss or damage sustained by a person due to the negligent operation of their vehicles. Here, the leasing company owned the truck involved in the accident, which was arguably caused by the driver's negligence (his speeding). And the worker suffered injuries as a result of this negligence.

## **WHY THE WRONG ANSWERS ARE WRONG**

**A and B are wrong** for the same reason: Workers' comp law bars the claims against the employer and driver. The workers' comp system is designed to provide compensation to workers for injuries occurring on the job in exchange for workers' giving

up the right to sue their employers or co-workers for such injuries. Here, the driver was negligent in speeding and his negligence caused the worker's injuries. And an employer can be held vicariously liable for an employee's negligence under certain circumstances. However, in this case, the driver's negligence occurred while he was carrying out his work duties and thus acting in the course of employment. So workers' comp will cover the worker's injuries but bar the claims against the employer and the driver.

**Insider Says:** For more information about workers' comp law, go to the [Workers' Comp Compliance Centre](#).

**D is wrong** because although workers' comp law does bar claims against an employer or co-workers for injuries occurring in the course of employment, it doesn't bar claims against third parties who aren't part of the employment relationship. In this case, the leasing company owned the truck but didn't employ either the driver or the injured worker, who were employees of the transportation company. Because the leasing company wasn't part of the employment relationship, it wasn't protected from liability by workers' comp law.

## **SHOW YOUR LAWYER**

*Maria-Antony v. Selliah*, [2014] O.J. No. 4251, Sept. 12, 2014