

Trott v. Brinks, WL 1300734 (Ala. May 4, 2007)

Question- Is an employer's insurance carrier is entitled to be reimbursed for medical expenses from amounts recovered from a third party in a wrongful death action filed by the employee decedent's personal representative?

Answer- No

The employee, Trott, was an armored car driver who was riding in the back seat of an armored car with his co-employees, on the way to deliver coins, when the armored car rolled over. The accident occurred in August of 2000, and the injuries that Trott sustained as a result of the accident caused his death, in October of 2000. During the course of his post-accident treatment, he accrued \$415,098 of medical bills which were paid by his employer and/or its insurance carrier, Liberty Mutual.

Mrs. Trott, the widow and administratrix of Mr. Trott's estate, filed a wrongful death action against Indiana Mills and Manufacturing, Inc. In her complaint, Mrs. Trott maintains that seatbelt malfunctioned, and caused the traumatic and ultimately fatal injuries which would not have occurred had the seatbelt held.

Liberty Mutual intervened to preserve its subrogation interests, and contended that it was entitled to be reimbursed both for death benefits and medical expenses paid to Mrs. Trott from any amount recovered in a third party action against the defendant IMMI and for medical benefits paid on behalf of Mr. Trott during his lifetime. Mrs. Trott disputed only the right of reimbursement for medical benefits paid on behalf of Mr. Trott during his lifetime. She maintains that recovery for medical expenses in a wrongful death action is inconsistent both with Ala.Code, 1975 ' 25-5-11 and with the principles of subrogation.

Trott argued, because she, as the administratrix of her husband's estate, could not recover damages from IMMI for medical expenses, Liberty Mutual could not recover such damages either. Essentially, Trott contended that Liberty Mutual cannot recover damages for medical expenses in a wrongful-death action when Trott herself cannot recover such expenses.

The term subrogation in workers' compensation statute that entitled an employer or its insurer to subrogation for medical and vocational benefits expended by the employer on behalf of the employee referred to the equitable doctrine of subrogation, and, thus, workers' compensation insurer was not entitled to recovery of medical benefits paid to employee, who eventually died from his work-related injuries, from the proceeds of widow's wrongful death action since medical expenses were not recoverable in a wrongful death action. Code 1975, ' 25-5-11(a).

The Court noted the Legislature's use of the word subrogation, rather than reimbursement, and found this word choice to be significant in determining the Legislature's intent. The Court also noted that the only recoverable damages in a wrongful death case are punitive damages intended to punish the tortfeasor for its actions; medical expenses are compensatory in nature and are not recoverable by a plaintiff in a wrongful death action.

The Supreme held that workers' compensation insurer was not entitled to recovery of medical benefits paid to employee from the proceeds of widow's wrongful death action

Military challenge coin