

Michigan Supreme Court overturns 2004 decision, says conservatives too strict in injury cases

By: ED WHITE

Associated Press

08/02/10 5:55 PM EDT

DETROIT — The Michigan Supreme Court has thrown out a 2004 decision and opened the door for more lawsuits by people seeking compensation after being injured in vehicle accidents.

The court, in a 4-3 decision, said conservative justices in the majority six years ago were too strict when they interpreted Michigan law about the impact of injuries on someone's ability to lead a normal life.

"This is huge," said lawyer Steven Gursten, whose specialty is auto cases. "The way Michigan law was changing, it was going to eliminate almost everyone who had been seriously injured in a car accident. That was not the intent of the Michigan Legislature."

An insurance trade group criticized the decision and predicted higher rates for motorists.

The court ruled in favor of a Genesee County man who suffered a serious ankle injury when he was run over by a truck at work. Under Michigan's no-fault law, someone hurt in a vehicle accident can recover lost wages and money for medical bills from their own insurer but suing a third party for pain and suffering is tougher.

Lower courts, citing a 2004 decision by the Supreme Court, had ruled against Rodney McCormick, noting he still had a job at the same pay and was living a normal life.

But Justice Michael Cavanagh, writing for the majority, said state law "merely requires that a person's general ability to lead his or her normal life has been affected, not destroyed."

Before being run over, McCormick worked 60 hours a week and regularly fished and golfed, Cavanagh said in an opinion released Sunday night.

"After the incident, at least some of plaintiff's capacity to live in this manner was affected," Cavanagh said. "For a month after the incident, plaintiff could not bear weight on his left ankle. He underwent two surgeries over a period of 10 months and multiple months of physical therapy."

Cavanagh was joined by justices Marilyn Kelly, Diane Hathaway and Elizabeth Weaver. In a dissent, conservative justices Stephen Markman, Robert Young Jr. and Maura Corrigan warned that Michigan's no-fault insurance system now could become financially stressed.

"The majority apparently holds ... that as long as a plaintiff's general ability to lead his normal life has been affected for even a single moment in time, the plaintiff has suffered a serious impairment of body function," Markman wrote.

The Insurance Institute of Michigan, which represents more than 90 companies, said motorists will see higher rates.

"The decision rewrites the standards ... and will provide for additional litigation and could seriously undermine the viability of our no-fault statute," director Pete Kuhnmuensch said.

Gursten, however, said the ruling simply moves Michigan law back to where it was before the court's 2004 decision.

"I have trouble shedding tears for insurance companies," he said.