SUPREME COURT OF CANADA

Case in Brief: *Rankin (Rankin's Garage & Sales) v. J.J.*

2018 SCC 19 | Judgment of May 11, 2018 | On appeal from the Court of Appeal for Ontario

---

A business that leaves a car unlocked with the keys inside will not necessarily be responsible when someone is injured after the car is stolen, the Supreme Court has ruled. The business will only be responsible where it should have known both that the car could be stolen, and that someone could be injured due to it being driven unsafely.

In a 7-2 decision, Justice Andromache Karakatsanis, writing for the majority, allowed an appeal by the owner of Rankin's Garage, which had been held liable for such an injury by lower courts.

One evening in July 2006, fifteen year-old J and 16 year-old C were at C's mother's house, drinking and smoking marijuana. C's mother provided some of the alcohol. Sometime after midnight, the boys left the house to walk around the town and steal valuables from unlocked cars. They entered Rankin's Garage and found an unlocked car with its keys in the ashtray. Though he did not have a driver's licence and had not driven on the road before, C decided to steal the car and told J to get in. While they were on the highway, the car crashed, and J suffered a catastrophic brain injury. Rankin's Garage, C, and C's mother were sued for negligence.

The jury found Rankin's Garage 37% responsible, C 23% responsible, C's mother 30% responsible, and J himself 10% responsible for his injuries. The trial judge had found that the owner of Rankin's Garage should have known that leaving an unlocked vehicle with the keys in it could result in intoxicated teenagers like J getting hurt. It therefore owed J a duty of care. (In law, a duty of care is a requirement to act reasonably to avoid harm to others. The harm must be reasonably foreseeable, or the duty will not exist.)

The Court of Appeal upheld the trial judge's holding. Rankin's Garage appealed.

The majority of the Supreme Court noted that there was no consensus in previous case law on whether a duty of care existed in similar situations. To determine whether Rankin's Garage owed J a duty of care, the majority looked at whether the garage owner should have known that his failure to take care could cause harm to someone like J. While the garage owner should have known that leaving a car unlocked with the keys inside could result in it being stolen, the evidence did not show that he should have known someone could be *injured* by a stolen car. This is because there was no evidence suggesting that a stolen vehicle would be driven unsafely—for example, suggesting that it would be stolen by a young person. The majority noted that just because something is *possible* does not mean that it is reasonably foreseeable under the law. Rankin's Garage therefore did not owe a duty of care to J.

Justice Russell Brown, writing for the dissent, disagreed with the majority's approach and would have dismissed the appeal. He considered that the garage owner could have reasonably foreseen that someone could get hurt as a result of his negligence in leaving keys inside an unattended, unlocked car.

This case turned on the question of what kinds of harm are reasonably foreseeable. The majority's decision clarified that a business will only be liable in this kind of situation where both the theft and the unsafe operation of the stolen vehicle should have been foreseen. It further indicated that a defendant may still owe a duty of care even if a plaintiff participates in criminal activity.

For more information (case no. 37323):

- Reasons for judgment
- Case information
- Webcast of hearing

…cont'd

Breakdown of reasons:

- Majority: Karakatsanis J. (McLachlin C.J. and Abella, Moldaver, Wagner, Côté and Rowe JJ. concurring)
- Dissent: Brown J. (Gascon J. concurring)

Lower court rulings:

- Court of Appeal for Ontario (appeal judgment)
- Ontario Superior Court of Justice (jury verdict, not available online)

Ce document est disponible en français.