

STATE OF MICHIGAN
IN THE 37TH CIRCUIT COURT OF CALHOUN COUNTY

HATTIE WHITFIELD, Personal Representative
of the Estate of BOBBY RAY WHITFIELD, Deceased,
Plaintiff,

v

94-931

DEAN ALLEN HUGHES, and CCR, Inc.,
Defendants.

FINDING ON PLAINTIFF'S MOTION
FOR DETERMINATION OF COLLATERAL SOURCE
AND FOR ENTRY OF JUDGMENT

Plaintiff's Motion for Determination of Collateral Source and for Entry of Judgment was heard October 27, 1995. The Court made a partial finding on the record at the conclusion of that hearing, but reserved one issue for written finding.

That issue is whether the collateral source statute - MCLA 600.6303, MSA 27A.6303 - requires reduction of the amount of the verdict by the total sum received by the deceased's spouse as a survivor's benefit pursuant to the Automobile No-Fault law.

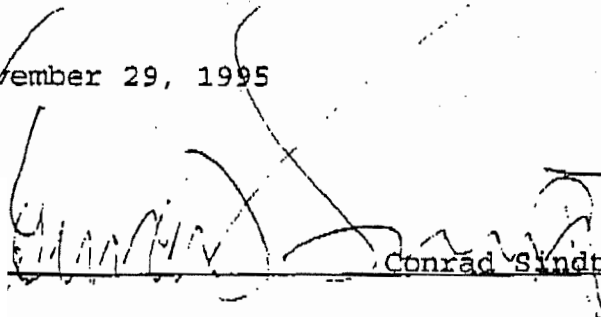
This Court finds that MCLA 500.3135, in the No-Fault law, specifically limits the claim for damages in this case to damages which are in excess of coverage already provided under the No-Fault law.

Since No-Fault benefits received by the surviving spouse are, by the above-cited provision of the No-Fault law, excluded from damages prayed for in this Wrongful Death action, those benefits should not be deducted from the verdict based on the collateral source statute. Subtracting the sum of those benefits from the verdict as a collateral source adjustment would amount to excluding them twice, since they have already been barred by the No-Fault provisions from the claim for damages.

Therefore, this Court finds that No-Fault benefits received for three years by the deceased's spouse do not constitute a collateral source and shall not be deducted from the amount of the verdict in this case pursuant to MCLA 600.6303.

Plaintiff's counsel shall prepare a Judgment for entry.

Date: November 29, 1995


Conrad Sindt, Circuit Judge