Negliegence: A Legal Commentary Essay, Research Paper

Legal Commentary

Assignment

The article:

General Motors has recalled 224,000 1998/1999 Cadillac Deville Sedans. As a result of a defective side impact sensor module, the vehicle’s airbag may either unintentionally deploy or not deploy at all. To date, there have been 306 reports of the sensor malfunction. Of these, 61 of the incidents have resulted in minor injuries such as cuts and bruises. Deemed as “the responsive thing to do”, General Motors started notifying owners of the vehicle by mail commencing Sept. 25th, 2000. At present, the requisite replacement parts are out of stock, as they were no longer manufactured. However, General Motors has commissioned the original manufacturer of the sensor to produce a replacement part, of which will be available in the first quarter of 2001.

In this potential product liability case, the three parties involved as defendants are the Manufacturer of the Sensor, General Motors, the vendor of the vehicle. The plaintiffs of the case would be the buyer/consumer of the Cadillac Deville Sedan and/or any injured parties who incurred damages as a result of the faulty side impact sensor.

As a manufacturer of goods, General Motors has an obligation imposed by society to meet a standard of care to the ultimate consumer of its products. Within the context of product liability law, General Motors is liable to the ultimate consumer of the goods where it can be proven in a court of law that the manufacturer was negligent in the following legislative principles (Willes, 1998):

a) The manufacturing of the said goods.

b) The goods manufactured by the company have an intrinsic danger associated with them.

c) The manufacturer of the said goods failed in its responsibility to warn the consumer of the danger.

If General Motors does not meet the aforementioned standards of care to the ultimate consumer, than General Motors can be sued by the owner of the vehicle (plaintiff) under tort law for negligence and/or contract law for a breach of contract. Furthermore, General Motors may also be found liable in its failure to meet the duty to warn of a continuing nature. However, the scope of the paper limits the analysis exclusively to establishing negligence.

Negligence Law

In order to successfully establish General Motor’s negligence, the product liability case must comply with the following established principles:

1) Is there a Duty of Care toward the injured party?

Indisputably, General Motors has a duty of care. The responsibility of a manufacturer was established in Donaghue v. Stevenson, (1932) A.C. 562, which established the principle that manufacturers have the duty to ensure that the ultimate consumers of their product do not sustain injuries as a result of the use of their products. Manufacturers of goods and services are subject to a high duty of care given that these businesses commercially profit from the purchase and use of their products.

2) What is the standard of care that should be applied in this particular instance?

Once a duty of care has been established, the defendant(s) standard of care must then be determined. In view of the fact that General Motors stands to commercially gain a significant amount of revenue and profit from the sale of their products, these large multi-national firms are positioned with a high standard of care towards their ultimate consumer. Therefore, General Motors must exercise the coinciding requisite level of responsibility and diligence in not only the research and design of their products but also the development of their goods.

3) Has there been a breach of duty?

There is a breach of duty of care since there is “a defect in the product itself which can cause injury to others”. (Adamson, p. 39) As a result of the inherent defect in the product itself, the principle of res ipsa loquitar applies in this potential product liability case. Thus, the onus is now upon General Motors to prove that they should not be attributed for the defect. Furthermore, the product does not correspond to its intended description. General Motors and the manufacturer of the sensor have a duty to ensure that the product performs as it is originally intended. In this case, not only does the senor module not perform at all, but also in some instances can actually be the cause of injury.

4) Is there a proximate cause between the injury or loss and the failure to meet a particular standard of care?

As a result of General Motor’s recall of the Cadillac Deville Sedan and the subsequent warning of the defective sensory module, the company has essentially admitted a proximate cause between the injuries sustained and the failure to meet a designated standard of care.

5) Was the risk of harm reasonably foreseeable?

The concept of foreseeability is essentially a control test. The courts place under inquisition whether the risk of harm was reasonably foreseeable by the defendant, or rather would a reasonable person in a similar circumstance have foreseen the risk of harm through their want of care? The court inquiry thus becomes “Did General Motors fail in their ability to foresee a risk of harm”? The article does not give all the necessary finite details of the case to be able to determine whether it was General Motors or the manufacturer of the sensor module that did not act within the confines of a reasonable person as deemed by the courts. Regardless, in the words of Lord Atkin both parties “must take reasonable care to avoid acts or omissions (with) which you can reasonably foresee would be likely to injure your neighbor” (Stewart & Stewart v. Lepage Inc., 1955). Furthermore, both General Motors and the manufacturer of the sensor are dictated by the standards of society to have a high degree of expertise and subsequently an obligation to foresee the risk of harm through the use of their product.

Analysis

The General Motors’ incident falls within the context of the established principles of negligence. Accordingly, General Motors could potentially be held liable in a product liability suit for negligence. However the following outcomes could result once facts and incriminatory evidence are revealed and analyzed:

1. If the facts bare out that General Motors was completely responsible for the commission or omission of the defective sensor module, which resulted in the injuries sustained by the plaintiff than General Motors would be held liable and negligent in a court of law.

2. If the facts bare out in a court of law that General Motors met all the specification standards (design specifications, assembly line equipment, installation in accordance with physical parameters of the driver, etc.) as mandated by the manufacturer of the sensor module and that in fact the defective sensor “was introduced by some agency other than (General Motors) own” or rather that “this deleterious article did not obtain entrance through his act of negligence but that of some other” (such as the manufacturer of the sensor module), than the said manufacturer of the sensor module could be held entirely liable and considered wholly negligent in a court of law. (Adamson, 35) General Motors could also argue intermediate inspection as a defense, however, the facts revealed in the article do not lend to this as a possible avenue of defense.

3. If the facts bear out that both General Motors and the manufacturer of the sensor had knowledge (commission) or ought to have had knowledge (omission) that there was a problem with the sensor to which they had a responsibility, than both parties could be held liable. In this circumstance, the modern view of shared responsibility would apply, as both parties are accountable for the faulty sensor module. Subsequently, each party would have had some responsibility for preventing and/or remedying the product defect and they would both be found joint and severally liable.

4. If the facts bear out that while General Motors and/or the manufacturer of the faulty sensor module were negligently liable, however, the severity of the injuries sustained from the deployment of the airbag would have been less severe had the driver of the vehicle (plaintiff) been wearing their seatbelt (as outlined and instructed by most vehicle manufacturers in the contributing success rate of an airbag), than the driver of the vehicle could be found partially liable under contributory negligence. The driver of the vehicle would not have met their responsibility as an operator of a motor vehicle, in their disregard to wear their seatbelt.

Conclusion

The limited information revealed in the article prevents a concrete conclusion of the potential outcome of a liability suit. However, within the context of product liability law and the established legislative principles of negligence, the outlined facts of the article fall within and comply with what is considered “legal carelessness” and hence negligence. (Adamson, 31)

Adamson, V.F. (1998/1999) The Law of the Marketplace.

G.M. recalls 224,000 Devilles. The Toronto Star. Saturday, October 14, 2000.

Willes, John. (1998) Contemporary Canadian Business Law: Principles & Cases. 4th Ed. Toronto: McGraw-Hill Ryerson.