

[Cite as *Ackley v. Ohio Dept. of Rehab. & Corr.*, 2015-Ohio-5704.]

SEARA ACKLEY

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2014-00859-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} Plaintiff, Seara Ackley, filed a complaint against defendant, Ohio Department of Rehabilitation and Correction (“ODRC”). Plaintiff asserted on July 6, 2014, at approximately 11:30 p.m., she was driving her 2007 Hyundai SantaFe on Pleasant Valley Road near defendant’s Ross Correctional Institution (“RCI”) when cows from RCI wandered onto the roadway. Plaintiff struck one of defendant’s cows totaling her vehicle.

{¶2} Plaintiff presented a letter from her lien holder, Huntington National Bank, which acknowledged that her vehicle was a total loss as determined by her insurance carrier, Allstate Insurance. The letter also revealed that plaintiff had received \$7,449.00 from Allstate, the fair market value of her vehicle at the time of the accident with ODRC’s cows. The letter also indicated the outstanding loan balance of \$10,651.63. An estimate from Allstate, also provided by plaintiff, indicated that the amount of the deductible was \$0.00.

{¶3} Plaintiff seeks damages in the amount of \$3,657.76, which is the remaining amount on her vehicle lien plus interest. Plaintiff submitted the \$25.00 filing fee.

{¶4} Defendant submitted an investigation report admitting liability due to its breach of its duty of care in negligently allowing RCI’s cows to escape and damage plaintiff’s vehicle. However, defendant asserted it cannot pay for the vehicle since

plaintiff has already received the fair market value of her vehicle from her insurance carrier, a readily available collateral source. Furthermore, plaintiff may not recover more than the fair market value of her vehicle at the time of the accident. While defendant appeared to be willing to pay for plaintiff's deductible, from the evidence presented by plaintiff it appears she paid no deductible.

{¶5} Plaintiff did not file a response to defendant's investigation report.

CONCLUSIONS OF LAW

{¶6} Owners of cows or other domestic animals are not permitted to allow their animals to run loose on state roads. R.C. 951.02. Under Ohio law, the liability of owners of resulting damages is based upon reasonable foreseeability and negligence. *Marsh v. Koons*, 78 Ohio St. 68, 84 N.E.2d 599 (1908); *Bolton v. Barkshurst*, 40 Ohio App. 2d 353, 319 N.E.2d 376 (6th Dist. 1973). Defendant admitted negligence for the total loss of plaintiff's vehicle.

{¶7} The owner of personal property may recover the fair market value of the property in question before the accident. See *Falter v. Toledo*, 169 Ohio St. 238, 158 N.E.2d 893 (1959); *Freeman v. Blosser*, 3rd Dist. No. 5-06-06 (October 16, 2006).

{¶8} "The Ohio Supreme Court has held that when a motor vehicle has been completely destroyed by the negligent act of another, the proper measure of damages is the full value of the vehicle less wreckage or salvage value. *Hayes Freight Lines, Inc. v. Tarver* (1947), 148 Ohio St. 82, 83. By recovering 'the full value of the vehicle, as of the date of its destruction, the owner has been made whole.' *Id.* at 83-84." *Webster v. Davis*, 9th Dist. No. 10CA0021, 2011-Ohio-1536, ¶17.

{¶9} R.C. 2743.02(D) in pertinent part states:

- a) "Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability, or other collateral recovery received by the claimant."

{¶10} Accordingly, plaintiff was fully compensated for the loss of her vehicle. However, she should receive \$25.00 for the reimbursement of her filing fee as compensable damages pursuant to the holding of *Bailey v. Ohio Department of Rehabilitation and Correction*, 62 Ohio Misc. 2d 19, 587 N.E.2d 90 (Ct. of Cl. 1990).

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ENTRY OF ADMINISTRATIVE
DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$25.00. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk