

Matheson v. Lewis, 2014 ONCA 542

Arthur Matheson, a farmer, was catastrophically injured on October 11, 2008 after being rammed by a hit-and-run driver as he rode his farm ATV on a public road the 100 yards between his driveway and a gate into his sheep pasture. Matheson and his family members brought an action against the driver of the truck, the owner of the truck, and the insurer of Mr. Matheson's own automobiles, Lanark Mutual Insurance Company.



Diane and Arthur Matheson

The case centred on whether Matheson's ATV met the definition of a "self propelled implement of husbandry." Was it a piece of farm equipment like a tractor or combine, exempt from Ontario's Compulsory Automobile Insurance Act? Or was it an off-road vehicle, and subject to the same insurance requirements as a car or truck? Matheson had only ever used the 1986 Honda TRX 200 for farm purposes. Since it was for farm use only, Matheson said he believed it didn't need additional insurance beyond his farm policy.

The Insurance Act includes a heavy penalty for an owner of a vehicle who is injured in an accident when the vehicle he was driving was not insured. That penalty is that he cannot sue any other driver for his damages, even if someone else was 100% at fault and responsible for the accident. The accident benefits (SABS or "no fault benefits") that the person can recover are also limited.

In a pre-trial motion, Mr. Justice Kenneth Pedlar ruled that ATVs met the definition of a "self propelled implement of husbandry" when driven for farm purposes and that their drivers were protected from the "very harsh" civil penalty that prevented those without insurance from seeking damages. He ruled that Mr. Matheson could pursue his claim against the at-fault driver, Gary Lewis¹.

Lewis and Lanark Mutual appealed this decision to the Ontario Court of Appeal.

The Court of Appeal found that the Trial (motions) judge "did not give effect to the grammatical and ordinary sense of the definition of a self-propelled implement of husbandry" and that the ATV in question, while "ideally suited for and widely used to carry out many farming tasks" was neither designed or manufactured for a specific use in farming. The Court found that the "evidence establishe[d] that it was manufactured and designed to serve both recreation and utility purposes. Though the ATV may be ideally suited for use by farmers, it may be equally ideally suited for use by hunters and trappers, and for recreation". The ATV was therefore not a self-propelled instrument of husbandry. As such, it was not exempt from the Compulsory Automobile Insurance Act and did, in fact, require insurance coverage either to allow its operator to sue any other driver for damages, or to claim "no-fault" benefits from his own insurer. Matheson therefore is barred from suing the careless driver, as well as from claiming no-fault benefits. Costs were also ordered against him.

¹ *Lewis was charged with failing to remain at the scene of a collision causing bodily harm, obstructing police, careless driving and breach of probation. He was incarcerated as a result of these charges.*

FIDS Analysis Questions

1. Who is (are) the Plaintiff(s) in this action? **(F)**
2. Who is (are) the Defendants? **(F)**
3. What happened to give rise to this action? **(F)**
4. What is the issue which both the trial (motions) judge and the judges at the Court of Appeal are being asked to decide? **(I)**
5. How did the trial (motions) judge decide the issue? Why? **(F)**
6. How did the Court of Appeal decide the issue? What was their reasoning? **(D)**
7. Assuming that the Court of Appeal decision stands (that is, that there is no further appeal in this matter), what effect does this decision have on Matheson and his family? **(S)**
8. For practical purposes, what effect does the ruling in this case have on society? **(S)**
9. The next step in this case would be to appeal to the Supreme Court of Canada. (Who would be doing that, and why?) You are a justice on the Supreme Court of Canada. How would you decide the appeal? Give your specific legal reasoning for your decision.
10. You are the solicitor for the Matheson family. What advice do you give them at this point in this matter? Why?