High court wants jury award in Ford case reviewed

by Greg Moran

SAN DIEGO - Three years after a San Diego jury levied the first-ever money award against Ford Motor Co. in an Explorer rollover case, the U.S. Supreme Court has unexpectedly ordered a new round of hearings in state courts.

In a brief order issued Monday, the high court sent the case back to the state appeals court in San Diego to determine if the final award in the case complies with a ruling by the U.S. Supreme Court earlier this year that overturned a large punitive damages award in a tobacco case.

The order was a victory for Ford, which has fought the massive award handed down by a jury in 2004. That panel first awarded $369 million to Brenda Buell-Wilson and her husband Barry for injuries that left her paralyzed after her Explorer rolled over near Alpine, Calif., on June 19, 2002.

The jury's award was the first ever against Ford nationally in a rollover case. But it was pared down in subsequent post-trial battles.

The trial court judge reduced the total award to $150 million. Then the 4th District Court of Appeal in San Diego cut that almost in half to $82.6 million.

Even though the amount has been reduced, the courts upheld the verdict finding the car maker liable for Buell-Wilson's injuries.

Still, Ford lawyer Theodore J. Boutrous Jr. said he was "very pleased" at the high court's move. "It's a strong signal that what we have been saying all along is true - that the trial was unfair and the jury award was excessive," he said.

Earlier this year the Supreme Court overturned a $79.5 million punitive damages verdict against the Philip Morris tobacco company, awarded to a smoker in Oregon.

The court ruled jurors might have improperly calculated the award based on harm the company caused to smokers other than the man whose widow brought the case. In that case, the court decided that punitive damages can't be used to punish a defendant for injuries caused to people who are not parties to a lawsuit.

Dennis Schoville, the lawyer for Buell-Wilson, said Monday's decision by the court does not mean that previous rulings upholding the verdict were in error.

He said the order asks the San Diego appeals court to examine its decision from July 2006 in light of the court's tobacco case ruling earlier this year.

"I think once the court of appeal reviews the case I'm confident they will decide their prior decision was entirely correct and will come out with the same result," he said. Boutrous said there are several ways the case could now proceed. He said the appeals court could re-examine the case on its own. It is also possible that the court could send the case back to the Superior Court for its review.

He said the appeals court could also order a whole new trial.

Buell-Wilson was paralyzed while driving on Interstate 8 near Tavern Road. She swerved to avoid an object in the road, and when she did a passenger-side wheel on the 1997 Explorer lifted off the road.

She fishtailed and rolled 4 1/2 times. The vehicle came to rest on its roof, crushing her spine and leaving the mother of two paralyzed.

She sued and alleged the design of the car was flawed, and while the company knew that, it did nothing to fix the flaws. Boutrous said the company was prevented from presenting evidence of the Explorer's safety record and the judge improperly allowed evidence about the safety record of the Bronco II, the predecessor vehicle of the Explorer.

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