

Can an accident victim receive damages, even if she was unlicensed?

Written by Australian Business

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Article provided by Law Offices of David P. Crandall Visit us at <http://www.davidpcrandall.com>

If you are severely injured in a motor vehicle accident that was clearly the other driver's fault, you might assume you would receive the compensation you deserve. However, the interaction between the law and insurance policies can be complex, and in some cases might put that recovery at risk.

A recent California Court of Appeal case, *Landeros v. Torres*, provides an example.

Severe and permanent injuries

In this case, the victim was involved in a car accident that caused her severe and permanent brain injuries. The driver admitted his negligence and did not dispute that he was intoxicated at the time. The victim was in a coma for several weeks after the collision and spent over nine months in a specialized facility. The victim would never work again, and would need assistance 24 hours a day, every day, for the rest of her life.

In the lower court, the jury awarded the victim more than \$31 million for her injuries.

Was the victim uninsured?

Unfortunately, at the time of the collision, the victim was driving a car purchased and insured by her father, and she was an unlicensed driver. In addition, because the victim was not living with her father at the time, she was not considered a "relative" who could receive coverage under the definitions in the father's insurance policy.

Under the applicable section of California law, if the victim was considered to be uninsured, the

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law would prevent her from recovering \$22 million in "noneconomic damages" that were part of the jury award. Noneconomic damages are intended to compensate a victim for pain and suffering and physical impairment, among other things.

The Court of Appeal held that the victim was operating the vehicle with the permission of her father--making her a permissive user--providing her coverage unless the insurance policy excluded unlicensed drivers. Luckily for this unlicensed driver, the insurance policy's definition of "insured person" did not require a permissive user be licensed. Thus, she was covered by the insurance and eligible for the noneconomic damages the jury had awarded.

Seeking the recovery you deserve

A victim in a catastrophic motor vehicle accident--in this case, injured by an intoxicated driver--may need extensive financial resources to recover or receive the care they need on an ongoing basis. Yet the complexity of the law, the circumstances of the accident, and the details of the insurance policies involved can put such a recovery in doubt.

It is important for a victim to seek an attorney with the legal knowledge and experience to navigate these difficulties and seek the recovery the victim deserves.