

COUNTIES - Liability for personal injuries caused by negligence.

12-13
December 4, 1934.

Hon. Sam M. McKay,
Prosecuting Attorney of Jefferson County,
DeSoto, Missouri.



Dear Sir:

A request for an opinion has been received from you under date of November 24, 1934, such request being in the following terms:

"At the request of the County Court of Jefferson County, Missouri, I want to state a case to you for the purpose of having you give us a written opinion on it.

Jefferson County maintains its roads by a system of maintenance men, who have charge of the machinery used in their district. When a maintenance man needs any help in operating graders and so forth, he has regular helpers.

On the 31st day of Jan., 1933, one of our maintenance men's helpers was unable to work and sent his father to take his place on the grader. The maintenance man was running the tractor with two men on the grader. In some way the grader was overturned, on account of getting too close to an embankment, and the old man who was taking his son's place was severely injured, his leg being crushed and broken below the knee. A local doctor gave him temporary treatment and sent him immediately to St. Anthony's hospital, where he was confined for a number of weeks before he was able to be moved home. He is still badly crippled and requires the care of a doctor.

The maintenance man nor the Highway engineer did not make a report to the County Court, so far as the record shows, until after the injured man was out of the hospital. The doctor bills and hospital bills together with the home treatment amount to somewhere near \$1500. This injured person has filed a claim with the County Court asking for the payment of all

2. Hon. Sam M. McKay.

December 4, 1934.

his expenses and additional damages on account of his permanent injury.

The County Court asked for my opinion, and I advised them that the county was not liable, being a subdivision of the State. The County Court has accepted my opinion as being the law, but in discussing the matter with them I suggested to them that it might be well to get an opinion from your office, and they then asked me to procure it for them.

Our County Court meets on the first day of December and I would appreciate the receipt of the opinion by that date."

In the case of Moxley v. Pike County, 276 Mo. 449, 208 S. W. 246 (1918), a personal injury suit against a county, based on negligence, was before the Supreme Court of Missouri which held that such a suit could not be maintained against a county. The court said:

"When, for convenience in the administration of its laws, the State, through the Legislature, calls to its aid those territorial organizations sometimes called, with more or less accuracy, quasi-corporations, such as counties, townships and school districts, the question has frequently arisen whether these agencies share, with the State itself, immunity from common-law liability for the negligence of their officers in the exercise of their territorial duties. The answer, from the courts of this State, has generally been a negative one. From *Reardon v. St. Louis County*, 36 Mo. 555, down to *Lamar v. Bolivar Special Road District*, 201 S. W. 890, are many cases which will be found collected in the case last cited which have settled the general principle so firmly that it is not questioned by this appellant."
276 Mo. 453.

In conclusion, it is our opinion that a county of this State is not liable for personal injuries caused by the negligence of officers or employees of the county.

Very truly yours,

EDWARD H. MILLER
Assistant Attorney-General

APPROVED:

ROY McKittrick
Attorney-General