

[Cite as *Brantley v. Southwest Ohio Regional Transit Auth.*, 2010-Ohio-6290.]

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

JAMAR LEE BRANTLEY,	:	APPEAL NO. C-100214
	:	TRIAL NO. 09CV-18038
Plaintiff-Appellee,	:	
	:	<i>DECISION.</i>
vs.	:	
SOUTHWEST OHIO REGIONAL	:	
TRANSIT AUTHORITY,	:	
	:	
Defendant-Appellant.	:	

Civil Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Affirmed in Part, Reversed in Part, and Cause Remanded

Date of Judgment Entry on Appeal: December 22, 2010

Victor Dwayne Simms, for Plaintiff-Appellee.

Thomas J. Gruber and *Michael P. Cussen*, for Defendant-Appellant.

Please note: This case has been removed from the accelerated calendar.

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SYLVIA S. HENDON, JUDGE.

{¶1} A bus operated by defendant-appellant the Southwest Ohio Regional Transit Authority (“SORTA”) struck plaintiff-appellee Jamar Lee Brantley’s parked car. The car was damaged beyond repair. Brantley’s insurance company paid him the fair market value of his car minus his \$500 deductible. Brantley then sued SORTA, a political subdivision, to recover (1) the \$500 deductible, (2) \$100 in transportation costs that he had incurred as a result of the loss of his car, and (3) \$3000 that Brantley still owed on his car loan even after receiving his insurance proceeds.

{¶2} The trial court found in favor of Brantley and entered judgment against SORTA in the amount of \$3600. SORTA now appeals. In its first assignment of error, SORTA alleges that the trial court erred by ordering SORTA to compensate Brantley for his car loan and for his transportation costs. In its second assignment of error, SORTA claims that the trial court misinterpreted R.C. 2744.05, the code section that controls damage awards against political subdivisions. We address these assignments of error together, turning first to the issue of statutory interpretation.

{¶3} Statutory interpretation presents a question of law that is reviewed de novo.¹ The trial court in this case awarded Brantley damages under R.C. 2744.05(C)(2)(f). In pertinent part, R.C. 2744.05(C)(2)(f) provides that a plaintiff may recover compensatory damages against a political subdivision for any expenditure “of the person whose property was * * * destroyed * * * that the court determines represent[s] an actual loss experienced because of the * * * property

¹ *State v. Consilio*, 114 Ohio St.3d 295, 2007-Ohio-4163, 871 N.E.2d 1167, ¶8.

loss.” The trial court found that this code section “clearly intended to broaden the category of compensatory damages” and awarded damages accordingly.

{¶4} SORTA now argues that the legislature enacted R.C. 2744.05(C) to limit, not to expand, a litigant’s potential recovery. SORTA is correct. In *Oliver v. Cleveland Indians Baseball Co. Ltd. Partnership*,² the Ohio Supreme Court determined that the purpose of R.C. 2744.05(C) is to preserve the financial integrity of political subdivisions by limiting an individual’s right to recover compensatory damages. The trial court therefore erred when it interpreted R.C. 2744.05(C) as allowing compensatory damages in this case greater than those allowed by law against a private party.

{¶5} SORTA also correctly argues that the trial court’s damage award must be vacated because it was more than what Brantley would have been entitled to had he sued a private party. Under the common law, it is well established that “the owner of a damaged motor vehicle may recover the difference between its market value immediately before and immediately after the collision.”³ Here, Brantley was entitled to the full market value of his car. He had already recovered this from his insurance company, minus a \$500 deductible. Since the purpose of R.C. 2744.05(C) is to limit and not to expand a plaintiff’s potential recovery, the trial court erred in ordering SORTA to compensate Brantley for any amount other than the \$500 deductible.

² 123 Ohio St.3d 278, 2009-Ohio-5030, 915 N.E.2d 1205, ¶10; see, also, *Menefee v. Queen City Metro* (1990), 49 Ohio St.3d 27, 29, 550 N.E.2d 181.

³ *Falter v. Toledo* (1959), 169 Ohio St. 238, 158 N.E.2d 893, paragraph one of the syllabus; see, also, *Rakich v. Anthem Blue Cross and Blue Shield*, 172 Ohio App.3d 523, 2007-Ohio-3739, 875 N.E.2d 993; *Smith v. Ralston* (Apr. 16, 1980), 1st Dist. No. C-790070.

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{¶6} SORTA's first and second assignments of error are sustained. We reverse the trial court's judgment in part and remand this case for a recalculation of damages in accordance with the terms of this decision.

Judgment reversed in part and cause remanded.

HILDEBRANDT, P.J., AND DINKELACKER, J., CONCUR.

Please Note:

The court has recorded its own entry on the date of the release of this decision.