

Negligence Hypo

Matt, who lives in rural Georgia, is a thirteen-year-old boy who has trouble paying attention in school. He is, however, ambitious and eager to make money. One of Matt's chores is to mow his lawn with the family's John Deere riding mower. He decides that his neighbors might pay to have him do the same for them and asks around. Within a short period of time, three neighbors have agreed to have Matt mow their lawn for \$20 each week.

Matt mows the lawn for the Grady family, his next-door neighbors. Matt's best friend, Tom, lives there along with his parents and seven-year-old sister, Meg. One Saturday, Matt drove over to mow the Grady's yard. Tom told him that his parents were not home, but that Meg was in the house with a babysitter (who was 25). Unconcerned, Matt began to mow the front yard. Tom, bored, decided to chase Matt while he was working. Matt, laughing, drove in a random pattern in order to avoid being caught. To confuse Tom, he at one point put the mower in reverse. After moving a few feet, Matt felt a bump and heard a scream.

Matt quickly shut off the tractor and discovered, to his horror, that he had run over Meg's foot. Meg had come outside after he started mowing, and he didn't see her because she was laying on the ground reading a book. The babysitter, who was inside making lunch for the children, ran outside, yelling "Oh my goodness Meg! You said you were going out in the backyard, not the front yard!" An ambulance was called. Fortunately, because of skilled medical care, Meg only lost her little toe as a result of the accident.

Meg's parents are understandably furious about the accident. They consult with you, a local lawyer, to determine who (other than their own family members) they can sue and whether they have a good chance of winning. Assess the merits of any existing claims.

Family v. Matt: Negligence in operating tractor

- A. Duty Matt owed depends on whether he was engaged in an adult or dangerous activity.
 1. Adult activity:
 - a. Large piece of equipment
 - b. Motorized
 - c. Sharp blades
 - d. Potentially great harm from misuse
 2. Child activity:
 - a. Many children are responsible for mowing lawns
 - b. Not inherently dangerous; common equipment
 - c. Early teens often have more responsibility for such vehicles in rural areas.
- B. Did Matt breach his duty of care?
 1. If child – duty to act as a reasonable child of like age, intelligence & experience

- A. Breach:
1. Matt is an experienced lawn mower & thus is more likely aware of the dangers of use.
 2. He is responsible enough to run his own business, suggesting a higher level of intelligence than average
 3. It is obvious to most people, including a 13-year-old, that playing around on a motorized lawn mower with sharp blades can lead to injury.
 4. It would have taken little to prevent this accident -- he would have had to keep a look out while operating the vehicle and not engage in game play.

- B. No Breach:
1. Matt was not aware that any small children were in the vicinity.
 2. There is indication that Matt should have seen Meg given that she was lying down.
 3. Even 13-year-olds tend to engage in this type of game play without thought for the consequences.

2. If adult – duty of reasonable care

- A. Breach:
1. It is foreseeable that playing games on a riding mower could lead to personal injury
 2. The cost of preventing the accident is minimal – monitoring the area and sticking to predictable patterns
 3. The probability of injury is not high, but if an accident occurs, it may lead to significant, if not fatal, personal injuries.

- B. No Breach
1. No evidence that he should have anticipated Meg in the yard.
 2. No evidence that should have seen her while in the yard. Not clear that taking care would have prevented this accident.

C. Causation + D. Damages = TBD later

Family v. Babysitter: Negligence in failing to supervise Meg

1. B owes a duty to act as a reasonable person.
2. Breach:
 1. Meg is a child and needs to be monitored on an ongoing basis.
 2. Because of her age, it is not sufficient to rely on Meg's word as to her intentions.

3. She can hear the lawnmower and should be aware of the potential for danger.
4. If an accident occurs with the lawnmower, it is likely to be significant.

No Breach:

1. Meg is 7-years-old, not an infant. It would be unreasonable to require constant monitoring.
2. B was engaged in making lunch when the accident happened, which indicates she was acting appropriately as a sitter.
3. She secured information from Meg indicating she would go the backyard, where she did not believe there is a mower present.
4. Lawn mowers are not unusual objects; children are around them all the time.
5. There is no evidence that she was aware a 13-year-old was operating the tractor. She could expect appropriate monitoring from an adult.