Recent Court of Appeals Ruling Makes Anti-Stacking Provisions in UM Policies a Must

Almost fifty years after the Mississippi Supreme Court first decided the stacking of UM policies was permissible in 1971, the Court of Appeals has now broadened the scope even further through its decision in *Brewer, et al. v. Mississippi Farm Bureau Casualty Insurance Company*.

Plaintiff, Shelby Brewer, was a passenger in a car driven by Allison McLain when she was injured in an accident involving an underinsured vehicle. Plaintiff's medical expenses exceeded the limits of the underlying liability policy and Plaintiff's own UM limits. However, Plaintiff learned Mississippi Farm Bureau insured Ms. McLain's vehicle involved in the accident, as well as three additional vehicles in the McLain household, for a total of $100,000 in UM benefits. Thus, the issue became whether Plaintiff could "stack" the UM benefits of all four vehicles insured under the same policy.

At the trial court level, Mississippi Farm Bureau filed a Motion for Summary Judgment arguing Plaintiff's status as a passenger automatically prohibited her from stacking the UM policies. In support of its argument, Mississippi Farm Bureau relied on case law from the Mississippi Supreme Court which had previously prohibited the stacking of UM policies when the person pursuing those benefits was not the named insured, a resident in the named insured's household, and/or a spouse, or relative of the insured. Finding Plaintiff did not fit into any of these categories and that she was merely a passenger of Ms. McLain's vehicle at the time of the accident, the trial court granted summary judgment to Mississippi Farm Bureau.

The Mississippi Court of Appeals reversed. The Court of Appeals emphasized the policy at issue did not contain an anti-stacking provision for UM benefits, a fact that Mississippi Farm Bureau was forced to concede at oral argument. Deciding this issue under the fundamental rules of contract construction, the Court of Appeals simply stated, "If Farm Bureau intended to exclude guest passengers from stacking UM benefits, it could have explicitly done so in the policy. Because it did not, we decline to rewrite the policy on its behalf." Because the policy did not contain an anti-stacking exclusion, the Court of Appeals concluded Plaintiff was not prohibited from stacking the UM benefits of the McLain vehicles insured under the same policy.

Notably, the Court of Appeals stated it was not overruling any established case law in issuing its opinion. As such, the issue of whether an injured employee may stack his employer's UM policy

benefits from other "fleet" vehicles not involved in the accident, but insured under the same policy, is still an undisturbed and resounding: NO.

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