

Illinois Plaintiff's Verdict Taken Away As Approaching Train Presented Open and Obvious Danger To Pedestrian Crossing Tracks

Article By:

Insurance Coverage Practice Group

Plaintiff's decedent was a 79-year-old man who had reasonably good hearing and wore glasses only for reading. He attempted to cross the tracks at a Metra station. As the train approached, **the engineer sounded his horn. Also, the engine had a flashing light on its front.** Plaintiff obtained a verdict, and the trial court denied defendant's post-trial motion for judgment notwithstanding the verdict. The Appellate Court originally affirmed the verdict. Thereafter, the Illinois Supreme Court issued *Choate v. Indiana Harbor Belt R.R. Co.*, 2012 IL 112948 which a railroad owed no duty to a 12-year-old boy injured when he fell while attempting to jump on a moving train. Exercising its supervisory authority, the Supreme Court directed the Court to review its previous order affirming the jury verdict.

The First District reversed its earlier decision and held the railroad owed no duty to the pedestrian crossing the railroad tracks. The evidence showed that decedent could have remained out of the way of the oncoming train had he stopped when he heard the train's horn and should have been able to see it approaching before traversing the crosswalk. It also noted the tracks in front of a moving train constituted an area of danger, and decedent should have realized the risk of entering the area. As the danger presented by the train was open and obvious, the defendant owed no duty. *McDonald v. Northeast Illinois Regional Commuter R.R. Corp.*, 2013 IL App (1st) 102766-B.

© 2025 Heyl, Royster, Voelker & Allen, P.C

National Law Review, Volume IV, Number 317

Source URL: <https://natlawreview.com/article/illinois-plaintiff-s-verdict-taken-away-approaching-train-presented-open-and-obvious>