

Memorandum of Law

General Facts of the Case

John Stokely works for AAA Auto Dealers as a Sales Executive. His job entails driving to the manufacturing facility in order to check on new orders. He is given funds for the gasoline, food and lodging if necessary. He is also given a company car to do his job. On his way to the manufacturing job to fulfill his daily duties, he decided to have dinner at his cousin's house. The boss of AAA Dealers accompanied him. While on the way to John's cousin's house, he collided with and injured a motorcyclist. Hence is this case of determining vicarious liability of the boss.

Issues of the Law and Questions to be Answered

The primary reason on hand is whether or not AAA Auto Dealers can be held liable for John's negligence and should be required to share in paying the damages incurred.

The Applicable Law and Jurisprudence

Under the law, employers can be held vicariously liable for the negligent acts of their employees either by omission or commission. It should be noted that vicarious liability is rooted from the doctrine of agency which is commonly known as *respondeat superior*. This doctrine implies that the superior (employer) is held responsible for the acts of the subordinate for as long as the acts are committed in line with the call of duty. Hence, this only means that a superior can only be held liable if the violation committed was made in line of the work or while in the course of performing the job that has to be fulfilled. In the absence of such requisite, however, the superior cannot be held liable and the employee should bear all the necessary responsibility, damage claim and punishment for the violation committed. Will the boss be held responsible?

In the case *Joel v. Morison*, the driver of Morison struck down Joel while the latter was crossing a street in their City thereby injuring him. Morison was held liable for the negligent of the driver even the neglect was committed (momentarily) outside the job's jurisdiction. Instead of travelling between Burton Crescent Mews and Finchley as directed by the boss, the driver detoured to visit a friend. It has to be remembered that "if the servants, being on their master's business, took a detour to call upon a friend, the master will be responsible. But if he was going on a frolic of his own, the master will not be liable" As for the case of John and AAA Auto Dealers, it can be seen that the since John is acting on the course of the employment of AAA Auto Dealers when the accident happened. Although he was on his way to a "personal" dinner at his cousin's house when the accident happened and had strayed momentarily (for an hour or so) to have a dinner before heading out to the manufacturing facility, he is still under the employment of AAA Auto Dealers. It has to be noted that employers will not be held responsible for the actions of the employees only if latter acted on the frolic of his own such as in the case of *N v Chief Constable of Merseyside Police*. In the aforementioned, N used his power and authority to commit an assault against an individual. Although he was on duty and was on the course of employment when the assault was committed, the employer (Merseyside Police) was not held liable because clearly, the job description of a police officer entails caring for the citizen and not to assault them (Brodie, 2010). The vicarious liability of the employer will only be extended to Civil Liabilities and no criminal charges can be filed against AAA Auto Dealers.

Conclusion

With all the foregoing, AAA Auto Dealers is deemed vicariously liable for civil damages and liabilities in relation to the negligence committed by its employee but no criminal charges are to be implied against the employer as he is not guilty of any offence (Giliker, 2010).

References

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