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Jury awards \$14 million in Pennsbury bus accident

A Bucks County jury has awarded a Falls woman \$14 million for severe injuries that she sustained after an out-of-control Pennsbury school bus ran over her in January 2007.

The jury deliberated for nearly four hours before reaching its verdict Monday afternoon for Ashley Zauflik, now 21, who lost her left leg above the knee, and suffered a crushed pelvis and other lower body fractures.

The verdict was one of the largest awards in recent Bucks County history and reflected nearly \$3 million in past and future medical expenses that Zauflik's attorneys requested and \$11.1 million in non-economic damages, such as pain and suffering and disfigurement.

None of the eight women and four men who decided the case is a Pennsbury taxpayer. Judge Robert Mellon, who oversaw the case, specifically excluded residents who live within school district boundaries during jury selection.

The Zauflik family, including Ashley, wept after the verdict was delivered and hugged their legal team and supporters. The family declined comment afterward through their attorney [Tom Kline](#).

The case was marked by three days of bickering between the attorneys and expert witnesses over the future medical costs for Zauflik, as well as the emotional and physical impact of the accident and injuries on her life. Last month, Zauflik reached a confidential settlement with the four companies involved in the design and manufacture of the bus and its braking and acceleration systems.

But it's unlikely that Pennsbury will be writing a check for the full award amount, unless Pennsylvania law is changed, according to the chief legal counsel for the Pennsylvania School Board Association.

After the verdict, Kline said he also was "ready, willing and able" to sit down with Pennsbury school officials and negotiate a payout that would be less than \$14 million. The newspaper was unsuccessful in reaching Pennsbury attorney David Cohen after the verdict.

"I think we should talk about it," Kline said. "I am willing to talk about what is a fair and reasonable amount because Ashley comes first."

At issue is a more than 30-year-old state law that limits the legal liability for local governments, including school districts, to \$500,000 and state government to \$250,000 per case in civil lawsuits.

The Zauflik jury was not told about the limit during the four-day trial, and in his instructions to them on Monday, Judge Mellon told them they must treat the school district like any other business entity.

Pennsbury accepted legal responsibility for the bus accident the day before the trial started, blaming the accident on driver error -- what investigations by the Falls police and the National Transportation Safety Board also concluded.

The district had offered \$500,000 to settle the Zauflik suit and seven other bus-accident claims. The amount reflects the liability cap the state Legislature set in 1980, an amount that hasn't changed since then, according to Stuart Knade, chief legal counsel for the Pennsylvania School Boards Association.

Over the years, the Pennsylvania Supreme Court has "repeatedly" rejected attempts to argue the caps violate the state constitution, Knade said.

The state's highest court last took up the liability cap issue in 1986 when it ruled that the state Legislature, not the courts, has the power to determine whether civil actions can be brought against a government body, according to a 1987 article in American Bar Association Journal.

The court also ruled that liability limits on judgments against state and local governments do not violate the state or federal constitution.

"If the cap is too low, the courts have said the General Assembly has set the number," Knade said. "If the number is too low, it's up to the General Assembly to change it."

But Kline pointed out that the school district is not prevented from paying above the cap. He added that the jury verdict was a "call on the Pennsbury School District" to come forward and do the right thing to "take care of one of their own."

"Stop hiding behind the cap," Kline said. "This case is a wake-up call for the cap."

But Knade pointed out that exceeding the cap is not a simple decision. The caps were put in place to limit the exposure to liability risk for state and local government bodies and, "by extension," taxpayers.

Recently the state Legislature removed the costs imposed by court orders, such as jury verdicts, as an exception under Act 1. Under an Act 1 exception, a school district can raise taxes above the cost index without first gaining approval from voters.

Knade is not aware of any municipality or school board that has "voluntarily" paid above the state cap in liability cases. He added that insurers are well aware of the state and local liability caps on lawsuits, and it is reflected in the premium rates charged, which benefits taxpayers because the rates are generally lower.

But Kline countered that a "deeply divided" Supreme Court issued a 4-3 decision in the liability cap issue in 1986, and that now may be the time to test the legal waters.

He plans to oppose Pennsbury's motion to "mold" the verdict to reflect the \$500,000 cap, which will move the case to the appeals court.

"It's not good enough for the school district to walk away and not accept responsibility. In the context of being a real person, like Ashley, and a jury in a county like Bucks with a well-reasoned verdict, the Supreme Court will see it's unfair, unjustifiable and unreasonable," Kline said. "There is no more worthy a case than what we have today."