

# SUPREME COURT OF LOUISIANA

*No. 98-C-1688*

PAULETTA GEDWARD, INDIVIDUALLY AND AS TUTRIX OF HER  
MINOR CHILD, KODI SONNIER

Versus

RONNIE SONNIER, ACCEPTANCE INSURANCE COMPANY,  
GLENN JOLIVETTE AND BOBBY SONNIER

LEMMON, J., Dissenting in Part and Concurring in Part

While I agree that an exclusion in an insurance policy must be construed against the insurer when the language is susceptible of two reasonable interpretations, I disagree that there are two reasonable interpretations of the language of the exclusion at issue in this case.

This homeowner's policy excludes liability coverage of an insured for "bodily injury . . . arising out of the . . . use . . . of . . . a motor vehicle owned or operated by, or rented or loaned to YOU . . . ." The term "motor vehicle," as generally used "[t]hroughout the policy" is defined (as applicable to the facts of this case) as a "motorized land vehicle owned by any insured."

If the policy had only excluded bodily injury arising out of the use of a motor vehicle, with no further modifying language, then the exclusion clearly would not apply, because the motorized land vehicle in this case does not fall within the general policy definition. However, the exclusion did not use the unmodified term "motor vehicle," which would be governed by the policy definition. Rather, the exclusion expressly modifies the general policy definition to exclude coverage not only of a motor vehicle owned by the insured (the policy definition of a motor vehicle), but also of a motor vehicle operated by the insured, a motor vehicle rented to the insured, or a motor

vehicle loaned to the insured.<sup>1</sup>

I find nothing in the Insurance Code or in the other statutes that prohibits an insurer from providing an exclusion that modifies the definition of a motor vehicle in a policy,<sup>2</sup> as long as the modifying language is clear and explicit. Perhaps this insurer could have been more explicit by using the term “motor vehicle” four times in the exclusion, as I did in the discussion in the preceding paragraph, rather than once. However, in my view, this exclusion clearly and properly modified the general policy definition of motor vehicle, applicable for purposes of the exclusion only. Since it is not reasonable to apply the general policy definition to the modified definition in the exclusion, there is no ambiguity.

I concur in the majority opinion on the issue of medical payments coverage.

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<sup>1</sup>I perceive no underwriting reason for interpreting the exclusion, as the majority does, to provide coverage for injury arising out of the use of a motorized land vehicle operated by or rented or loaned to an insured, but to exclude coverage when the insured owns the vehicle.

<sup>2</sup>The general policy definition of the term “motor vehicle” obviously was intended to apply only when the term was not expressly defined differently in a specific provision in the policy.