

An environmentalist purchased a newly released electric car from a car manufacturer. The car possessed many innovative features, including the ability to drive and maneuver itself through traffic with minimal assistance from the driver. One day, the environmentalist entered an address into the car's computer system and followed all protocol regarding the amount of assistance she needed to give the car in order to reach her destination. However, as the car was driving her to the destination, the computer system malfunctioned. The car swerved violently into oncoming traffic, causing a car accident in which the environmentalist sustained a broken arm.

The environmentalist subsequently filed a strict products liability action against the car manufacturer under a design-defect theory of recovery. At trial, the environmentalist introduced evidence that a reasonable alternative design for the computer system was available to the car manufacturer and that failure to use that design rendered the car not reasonably safe. In its defense, the car manufacturer introduced evidence that the car's computer system complied with all governmental safety standards for electric cars. In addition, the car manufacturer demonstrated that the car's computer system was "state of the art" by introducing as evidence the level of relevant technological knowledge existing and reasonably feasible at the time the car was distributed.

Will the environmentalist likely prevail?

- A. No, because the car's computer system complied with all governmental safety standards for electric cars.
- B. No, because the car's computer system was "state of the art" based upon the technological knowledge existing and reasonably feasible at the time the car was released.
- C. Yes, because the car manufacturer negligently designed the car's computer system since there was a reasonable alternative design available to it.
- D. Yes, because the car's computer system was defective and the environmentalist was injured as a result of the computer system's malfunction.

Explanation:

Strict liability may be imposed on a commercial seller (eg, manufacturer) that produces or sells a **defective product** that causes the plaintiff physical harm. A product is **defective by design** if:

the product's design is **unreasonably dangerous** to consumers *and*

that danger could have been mitigated by a **feasible alternative design**—ie, a less dangerous and economically reasonable modification or alternative design.

In its **defense**, the commercial seller may introduce evidence that the product's design was "**state of the art**." The "state of the art" standard is met if the design complied with the level of relevant scientific, technological, and safety knowledge existing and reasonably feasible at the time the product was distributed. However, compliance with this standard **does NOT bar the plaintiff's recovery** against the commercial seller as a **matter of law**.*

Here, the environmentalist introduced evidence that a reasonable alternative design for the car's computer system was available to the car manufacturer and that failure to use that design rendered the car not reasonably safe (design defect). Although the manufacturer then introduced evidence that the car's computer system was "state of the art," this does not bar recovery against the manufacturer **(Choice B)**. Therefore, the environmentalist will likely prevail because the car's computer system was defective and she was injured as a result of its malfunction.

*Some states have enacted statutes providing that compliance with the state-of-the-art standard is a total bar to recovery (not seen here).

(Choice A) A product that fails to comply with governmental safety standards is deemed defective. But a product's compliance with such standards is not conclusive evidence that the product is free from defects.

(Choice C) Whether the car manufacturer negligently designed the car's computer system is irrelevant in this strict liability action.

Educational objective:

In a strict products liability action brought under a defective-design theory of recovery, the manufacturer's evidence that the product's design was "state of the art" does not bar the plaintiff's recovery as a matter of law.

References

Restatement (Third) of Torts: Prods. Liab. §§ 1, 2(b) (Am. Law Inst. 1998) (liability of commercial seller for design defects).

Elements of strict products liability

Δ was commercial seller

- Manufacturer
- Distributor
- Retailer

+

Product defective at time left Δ 's control

- Manufacturing defect
- Design defect
- Failure to warn

+

Defect caused π physical harm

- Bodily harm
- Property damage

π = plaintiff; Δ = defendant