

The driver of a newly purchased automobile encountered problems with its power steering. Due to a manufacturing defect in the steering system that was present when the automobile left the manufacturer, the driver was unable to control the automobile. Fortunately, the driver was able to bring the automobile to a stop, but not before hitting and destroying a parked bicycle. Seeking to recover the cost of her bicycle, the bicyclist has sued the automobile manufacturer in a breach-of-warranty action.

Is the bicyclist likely to succeed in a jurisdiction that follows the majority approach to breach-of-warranty actions?

- A. No, because the bicyclist did not suffer any personal injuries due to the defective steering system.
- B. No, because the bicyclist was not in privity with the automobile manufacturer.
- C. Yes, because the defect in the automobile's steering system that destroyed the bicycle existed at the time the automobile left the manufacturer's control.
- D. Yes, because the property damage suffered by the bicyclist was a foreseeable result of an automobile with a faulty steering system.

### Explanation:

**Products liability** actions based on breach of **warranty** can be asserted against a variety of defendants (eg, retailers, distributors, manufacturers). However, the **plaintiff** must establish **privity with the defendant** to have **standing to sue** for **breach of warranty**. This becomes an issue when the plaintiff is someone other than the purchaser. Under the majority approach, the purchaser's **privity extends** only to members of the **purchaser's family or household**—but they can only recover for **personal injury**.

Here, the driver (not the bicyclist) was the purchaser of the automobile, and the bicyclist is not a member of the driver's family or household. This means that the bicyclist was *not* in privity with the automobile manufacturer under the majority approach and has no standing to sue. As a result, her breach-of-warranty action against the manufacturer will not succeed.\*

\*Had this jurisdiction followed a minority approach—under which privity extends to any person reasonably expected to use, consume, or be affected by the product—the bicyclist would have had standing and could have recovered for any injury.

**(Choice A)** Whether the bicyclist suffered any personal injuries would matter only if she were in privity with the manufacturer and had standing to sue. But even if she had standing, the bicyclist could not recover because she only sustained property damage—not personal injury.

**(Choice C)** Because the steering system defect existed when the automobile left the manufacturer's control, the manufacturer is a proper defendant. But the bicyclist is not a proper plaintiff because she is not in privity with the manufacturer and therefore lacks standing to sue.

**(Choice D)** A strict products liability action can be brought by anyone foreseeably injured by a defective product or whose property is harmed by the product. But the foreseeability of the property damage suffered by the bicyclist is not a reason for her to prevail in this breach-of-warranty action.

### Educational objective:

Under the majority approach, only a purchaser or members of a purchaser's family or household have standing to sue for breach of a product warranty, but they can only recover for personal injury.

### References

U.C.C. § 2-318 (Am. Law Inst. & Unif. Law Comm'n 2020) (extended privity for breach-of-warranty actions).

## Privity for standing to sue for breach of product warranty

