

An amusement park purchased an oversized caricature mask from a manufacturer. One of the amusement park's employees was wearing the mask when she was accidentally tripped by a customer. The employee fell, injuring her neck from the strain caused by the weight of the mask. The employee filed a worker's compensation claim but only received limited compensation that did not cover the full cost of treating her injury.

The employee brought a negligence suit against the manufacturer and has established that, in designing the mask, the manufacturer failed to include a safety harness that would protect the wearer's neck from strain caused by a fall. In its defense, the manufacturer established that the mask's design complied with all government standards for flammability and composition, and that those standards did not require the masks to have safety harnesses.

Is the employee likely to be awarded damages from the manufacturer?

- A. No, because the employee's injury was caused by an intervening negligent act.
- B. No, because the manufacturer's compliance with safety standards is conclusive evidence that it was not negligent.
- C. Yes, because negligent intervening acts are generally regarded as foreseeable.
- D. Yes, because the manufacturer was a commercial seller of the mask.

Explanation:

A plaintiff harmed by a **defective product** can prevail in a **negligence** suit against a manufacturer (or other seller) by proving that the manufacturer's failure to use reasonable care actually and proximately **caused** the plaintiff's harm. An **intervening act or event** that contributed to the plaintiff's harm **will not break** the **chain of causation** and relieve the manufacturer from liability if that act or event was **reasonably foreseeable**.^{*} And, as a general rule, **negligent intervening acts** are regarded as foreseeable.

Here, the employee sued the manufacturer of the mask after she fell and injured her neck from the strain caused by the weight of the mask. The manufacturer likely failed to use reasonable care in designing the mask without a safety harness to prevent this type of injury. And though a customer accidentally tripped the employee, causing her to fall, that intervening negligent act is regarded as *foreseeable*. Therefore, it did not cut off the manufacturer's liability, and the employee is likely to be awarded damages from the manufacturer **(Choice A)**.

^{*}By contrast, intervening acts or events that were NOT reasonably foreseeable become superseding causes that break the chain of causation between the defendant's tortious conduct and the plaintiff's harm.

(Choice B) Compliance with governmental safety standards is *not* conclusive evidence that a product was not defective or that the manufacturer was not negligent. However, a jury may consider whether a product complied with governmental safety standards when determining these issues.

(Choice D) Unlike a products liability action based in strict liability, an action based in negligence can be brought against a commercial *or* noncommercial seller. Therefore, the fact that the manufacturer was a commercial seller of the mask is irrelevant.

Educational objective:

A products liability claim based in negligence requires proof that the defendant's (eg, manufacturer's) failure to use reasonable care caused the plaintiff's harm. An intervening act or event that contributed to the plaintiff's harm will NOT cut off the defendant's liability if the act or event was reasonably foreseeable (eg, a negligent intervening act).

References

Restatement (Third) of Torts: Liab. for Physical & Emotional Harm § 6 (Am. Law Inst. 2010) (negligence liability).

Products liability

