

An 11-year-old boy was driving a full-size motorcycle on a private road, where the boy was a trespasser. The motorcycle hit a tire that had fallen off a truck driven by a delivery company employee who was making a delivery to an address on the private road. The boy was injured when his motorcycle went out of control after striking the tire.

In a negligence action brought on behalf of the boy against the delivery company, the company contends that the boy was contributorily negligent and that his damages, if any, should be reduced in conformance with the jurisdiction's comparative negligence statute. The boy argues that his conduct should be judged according to the standard of a reasonable child of like age, intelligence, and experience under the circumstances.

Is the boy entitled to be judged according to the standard of care that he has argued for?

- A. No, because the boy was driving a motorcycle. (95%)
- B. No, because the boy was trespassing on the private road. (0%)
- C. Yes, because comparative negligence applies. (0%)
- D. Yes, because the boy was 11 years old at the time. (2%)

Incorrect

Correct answer A

95% Answered correctly

57 secs Time Spent

2023 Version

Explanation:

Standards of care for negligence

Adult	Must act in same manner as ordinary, reasonable adult in similar circumstances Standard adjusted for physical disabilities, superior skill & knowledge, involuntary intoxication Standard not adjusted for mental & emotional disabilities, voluntary intoxication
Professional	Must demonstrate same knowledge, skill & care as another professional in similar community National (not community) standard applied to medical specialists*
Child	Must act in same manner as reasonable child of same age, intelligence & experience Adult standard applied to children engaged in dangerous adult activity Children under five years old incapable of negligence

*A modern trend applies a national standard of care to *all* physicians.

Children are generally expected to conform to a child's standard of care, which requires them to act like a reasonable child of the same age, intelligence, and experience. But a **child who engages in a dangerous activity** that is **normally undertaken by adults** will be held to an **adult standard of care**. The child's conduct will then be measured against that of an **ordinary, reasonable adult** under the circumstances. If the child breaches this standard and contributes to his/her own physical harm, then the child can be found contributorily negligent.

Here, the 11-year-old boy sued the delivery company for [negligence](#). The company contended that the boy's damages should be reduced by his level of contributory negligence. The boy argued that his conduct should be judged according to the standard of a reasonable child of like age, intelligence, and experience under the circumstances. But since the boy engaged in a dangerous adult activity by driving a motorcycle, his conduct will be judged according to an adult standard of care—not the standard of care for which he has argued.

(Choice B) Although the boy was trespassing on the private road, his status as a trespasser does not affect the standard of care that will be applied.

(Choice C) In [comparative negligence jurisdictions](#) (as seen here), a plaintiff's recovery is reduced (not barred) if the plaintiff failed to exercise reasonable care. But the fact that comparative negligence applies here does not determine the applicable standard of care.

(Choice D) Although the boy was 11 years old at the time the accident occurred, he will be held to an adult standard of care because he was engaged in a dangerous adult activity.

Educational objective:

Children are generally required to act in the same manner as a reasonable child of the same age, intelligence, and experience. But a child who engages in a dangerous adult activity will be held to an adult standard of care, under which the child's conduct will be measured against that of an ordinary, reasonable adult.

References

Restatement (Third) of Torts § 10 (Am. Law Inst. 2010) (discussing the standard of care for children).

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