

An inexperienced driver borrowed a car from her friend for the express purpose of driving it several blocks to the local drug store. Instead, the driver drove the car, which was then worth \$12,000, to another city 100 miles away. While she was safely driving in the other city the next day, the car was hit by a negligently driven truck and sustained damage that will cost \$3,000 to repair. If repaired, the car will be fully restored to its former condition.

If the friend asserts a claim against the driver based on conversion, what is the maximum amount, if anything, that he can recover from the driver?

- A. Nothing, because the driver was not negligent in causing the collision.
- B. \$3,000.
- C. \$3,000 plus damages for the loss of the use of the car during its repair.
- D. \$12,000.

Explanation:

Conversion is an intentional exertion of dominion or control over the plaintiff's chattel that so **seriously interferes** with the plaintiff's ownership rights that the defendant is liable for the fair market value of the chattel at the **time and place of the conversion**. A defendant who initially uses the plaintiff's chattel with permission commits conversion when the defendant:

intentionally uses the chattel in a manner that **exceeds the scope of permission and seriously violates** the plaintiff's **right to control** the chattel.

Here, the driver had the friend's permission to borrow his car for the express purpose of driving it to the local drug store *several blocks* away. Instead, the driver intentionally exceeded the scope of permission when she drove the friend's car to another city *100 miles* away and *kept it overnight*, which seriously violated the friend's right to control his car. Therefore, the driver committed conversion, and the friend can recover the fair market value of the car at the time the conversion occurred—\$12,000.

(Choice A) Conversion requires that the defendant's conduct be *intentional* (the purpose or knowledge that one's act will cause a particular result)—not *negligent* (the failure to act in the same manner a reasonably prudent person would act under similar circumstances). Additionally, the conversion occurred when the driver intentionally drove the friend's car to another city and kept it overnight. Therefore, evidence that the driver was not negligent (ie, drove safely) in causing the collision has no bearing on the friend's conversion claim.

(Choice B & C) *Trespass to chattels* (minor intentional interference with the plaintiff's chattel) only allows the plaintiff to recover *actual damages* (eg, cost of repairs, loss of use). But because the friend sued for conversion, he can recover the *fair market value* of the car.

Educational objective:

A defendant who has permission to use the plaintiff's chattel commits conversion when he/she (1) intentionally uses the chattel in a way that exceeds the scope of permission and (2) seriously violates the plaintiff's right to control the chattel. The defendant is liable for the fair market value of the chattel at the time and place of the conversion.

References

Restatement (Second) of Torts § 222A (Am. Law Inst. 1965) (definition of conversion).

Restatement (Second) of Torts § 223 (Am. Law Inst. 1965) (ways to commit conversion).

Restatement (Second) of Torts § 228 (Am. Law Inst. 1965) (conversion by exceeding authorization).

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Conversion by exceeding the scope of permission

