



2006

Recent Developments: *Nasseri v. Geico Gen. Ins. Co.*: A Taxicab Driver Is Insured under His Personal Motor Vehicle Insurance Policy for Injuries Resulting from a Collision between His Taxicab and Another Motor Vehicle Even if the Taxicab Is Not an Insured Auto under the Policy and It Is Available For the "Regular Use" of the Insured

Emily King Watkins

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

Recommended Citation

Watkins, Emily King (2006) "Recent Developments: *Nasseri v. Geico Gen. Ins. Co.*: A Taxicab Driver Is Insured under His Personal Motor Vehicle Insurance Policy for Injuries Resulting from a Collision between His Taxicab and Another Motor Vehicle Even if the Taxicab Is Not an Insured Auto under the Policy and It Is Available For the "Regular Use" of the Insured," *University of Baltimore Law Forum*: Vol. 36 : No. 2 , Article 15.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol36/iss2/15>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

RECENT DEVELOPMENT

NASSERI v. GEICO GEN. INS. CO.: A TAXICAB DRIVER IS INSURED UNDER HIS PERSONAL MOTOR VEHICLE INSURANCE POLICY FOR INJURIES RESULTING FROM A COLLISION BETWEEN HIS TAXICAB AND ANOTHER MOTOR VEHICLE EVEN IF THE TAXICAB IS NOT AN INSURED AUTO UNDER THE POLICY AND IT IS AVAILABLE FOR THE “REGULAR USE” OF THE INSURED

By: Emily King Watkins

The Court of Appeals of Maryland held that the driver of a taxicab is entitled to personal injury protection (“PIP”) benefits from his personal motor vehicle insurance policy for the injuries suffered in a collision, even if the uninsured taxicab is available for the “regular use” of the insured. *Nasseri v. Geico Gen. Ins. Co.*, 390 Md. 188, 888 A.2d 284 (2005). In so holding, the Court of Appeals deferred to the Maryland Legislature in not recognizing the “regular use” exclusion and not adding new exclusions to the existing list of permissible exclusions set forth in the Maryland Insurance Article (“Insurance Article”). *Id.*

On May 15, 2001, petitioner Ebrahim Nasseri (“Nasseri”) was driving a taxicab that collided with a motor vehicle. The taxicab driven by Nasseri was owned by Action Taxicab, Inc. (“Action”). Nasseri and Action had an agreement that required Nasseri to pay Action ninety-five dollars per day for use of the taxicab. The agreement also stated that Nasseri was only permitted to use the taxicab for twelve hours during any twenty-four hour period. When the accident occurred, the taxicab was covered by liability insurance only, pursuant to the minimum requirements of applicable Maryland law. Nasseri had an independent motor vehicle insurance policy through Geico General Insurance Company (“Geico”) for his personal motor vehicle. Nasseri’s independent policy offered personal injury protection coverage if a personal injury arose from a “motor vehicle accident.”

After the accident, Nasseri filed a claim for PIP benefits with Geico pursuant to his personal motor vehicle insurance policy. The claim

was for \$2,500.00, which was the maximum limit under Nasser's policy. Geico denied PIP coverage for varying reasons. Geico's first reason was that under the Insurance Article, taxicabs are not included within the definition of "motor vehicle," and therefore, Nasser was not injured in a "motor vehicle accident" within the meaning of the PIP statute. Geico's second reason was that there is no PIP coverage under the insurance policy for uninsured vehicles which are in "regular use" by the insured.

Following the notice of denied coverage, Nasser filed a small claim action for damages against Geico in the District Court for Montgomery County. He asserted that he was entitled to PIP reimbursement for the injuries suffered in the accident based on his personal motor vehicle insurance policy and the relevant statutory provisions. The trial court ruled in favor of Geico and held that Nasser was not entitled to PIP reimbursement due to the exclusion of taxicabs from the statutory definition of a "motor vehicle." On a *de novo* appeal, the Circuit Court for Montgomery County also ruled in favor of Geico, but on different grounds. The circuit court held that the "regular use" exclusion in the Geico policy was applicable and valid.

The Court of Appeals of Maryland granted writ of certiorari to determine whether the Insurance Article required Geico to provide PIP coverage when a taxicab driver is injured in a collision while driving a taxicab, which is not the taxicab driver's insured personal motor vehicle, and whether the 'regular use' exclusion contained in Geico's insurance policy is invalid under the statute.

Geico asserted that the driver of a taxicab is not entitled to PIP reimbursement under the driver's personal motor vehicle insurance policy solely because the definitions of "motor vehicle" and "motor vehicle accident" under MD. CODE ANN., INS. Section 19-501(b)(2)(ii), (c)(1) (2005), do not include a taxicab. *Nasser*, 390 Md. at 193, 888 A.2d at 287. The Court found this argument unsound because the Insurance Article describes a "motor vehicle accident" as "an occurrence involving a *motor vehicle* that results in damage to property or injury to a person," and does not specifically exclude a taxicab. *Id.* (quoting Section 19-501(c)(1)) (emphasis added). The accident which gave rise to this litigation most certainly involved a "motor vehicle," the other vehicle involved in the collision. *Id.* Furthermore, the Insurance Article states that an insured "who is injured in *any* motor vehicle accident, including an accident that *involves an uninsured motor vehicle*" is protected by PIP coverage.

Id. at 194, 888 A.2d at 287 (quoting MD. CODE ANN., INS. Section 19-505(a)(1)(i) (2005)) (emphasis added). A clear reading of the Insurance Article indicates that Nasserri was injured in a motor vehicle accident and that PIP coverage is provided for anyone injured in any motor vehicle accident. *Id.* (citing Section 19-505).

The Court looked to the legislative history of the Insurance Article to determine why taxicabs were no longer defined as “motor vehicles.” *Id.* at 195, 888 A.2d at 288. The Court determined that “the purpose of Ch. 655 [of the Acts of 1977] was simply to provide that the compulsory automobile liability insurance policies on taxicabs and certain other vehicles did not have to contain policy provisions for PIP and some other statutory coverages.” *Id.* at 195-196, 888 A.2d at 288. Chapter 655 did not change the necessity of PIP coverage for all other motor vehicle insurance policies. *Id.* at 196, 888 A.2d at 288.

The Insurance Article, as well as Maryland case law, impart that an insured is ordinarily protected under the PIP coverage in his personal motor vehicle insurance policy if he is injured in an accident while occupying someone else’s motor vehicle. *Id.* Maryland case precedent shows that if the insured is riding or driving in a vehicle that is not his own and that vehicle has PIP coverage, “that coverage will be primary and the coverage under the policy on the insured’s vehicle will be secondary.” *Id.* If the vehicle the insured is riding in or driving is not protected by PIP coverage, the coverage under the insured’s policy will be primary. *Id.* The Court found there was no reason for denying Nasserri’s PIP benefits. *Id.* at 196, 888 A.2d at 289.

Geico’s second reason for denying PIP coverage was that there is no PIP coverage under Nasserri’s personal motor vehicle insurance policy for uninsured vehicles which are available for the “regular use” of the insured. *Id.* at 197, 888 A.2d at 289. Section 19-505(c) of the Insurance Article lists the permissible exclusions from mandatory PIP coverage. *Id.* at 197-198, 888 A.2d at 289. The “regular use” exclusion is not one of the permissible exclusions listed in Section 19-505(c). *Id.* at 198, 888 A.2d at 289. Geico urged the Court to recognize the “regular use” exclusion because the vehicle available for “regular use” was a taxicab. *Id.* at 198, 888 A.2d at 290. The Court held that it would not usurp the Maryland Legislature by creating new exceptions. *Id.* at 198-199, 888 A.2d at 290. In addition, Geico’s argument did not suggest to the Court a basis for distinguishing between taxicabs and other types of vehicles when applying the exclusion. *Id.* at 199, 888 A.2d at 290.

Geico's argument was also inconsistent with the Court of Appeal's decision in *Pennsylvania Nat'l Mut. Cas. Ins. Co. v. Gartelman*, 288 Md. 151, 416 A.2d 734 (1980), and the Legislature's response to that decision. *Id.* *Gartelman* involved the validity of two exclusions under the Insurance Article, one concerning PIP coverage and the other concerning uninsured motorist coverage. *Id.* The Court held in *Gartelman* that both the PIP exclusion and the uninsured motorist exclusion were invalid because neither exclusion was listed among the four applicable exclusions in the Insurance Article. *Id.* at 200, 888 A.2d at 291 (citing *Gartelman*, 288 Md. at 156-157, 416 A.2d at 737).

The General Assembly enacted Chapter 573 of the Acts of 1982, now codified as Section 19-505(c)(1)(ii) of the Insurance Article, in response to *Gartelman*. *Id.* The statute excludes the named insured and immediate family members residing in the same household from receiving PIP coverage when they are occupying an uninsured vehicle. *Id.* at 201, 888 A.2d at 291. The permissible exclusion in the Insurance Article is narrower than the exclusions contained in the policies of both *Gartelman* and this case. *Id.*

The Court of Appeals determined that the driver of a taxicab is entitled to PIP benefits from his personal motor vehicle insurance policy for injuries suffered in a collision, even if the uninsured taxicab is available for the "regular use" of the insured. This decision could negatively affect motor vehicle insurance companies that do business in Maryland. Insurance premiums for individuals who have insured their motor vehicles in Maryland might increase as a direct result of the increase in the number of PIP claims submitted to insurance companies.