

Commonwealth Court Upholds Governmental Damages Cap

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in a case in which a jury awarded \$14 million in damages to a Bucks County resident hurt in a school-bus accident, Commonwealth Court on Wednesday upheld a law that caps damages at \$500,000 in suits against towns and school districts.

Ashley Zauflik, now 23, lost her left leg after a Pennsbury School District bus ran over her in 2007. A jury issued the multimillion-dollar ruling in her favor in 2011.

But in May 2012, Bucks County Court Judge Robert J. Mellon reduced the award to \$500,000, based on the state liability cap for school districts and municipalities.

In Wednesday's ruling, Judge Renee Cohn Jubelirer wrote that courts had upheld the law a number of times. While the "tragic circumstances of this case weigh heavily on this court," she wrote, the court is not responsible for altering the law.

"It is the role of the General Assembly, not this court, to make the difficult policy decisions and enact them into law

if such decisions receive the support of the necessary majority," she wrote.

Judge Rochelle S. Friedman wrote in a dissenting opinion that she believed the cap was unconstitutional.

Thomas Kline, Zauflik's attorney, called the cap a "manifest injustice" and said he planned to appeal to the state Supreme Court.

"I am hopeful that the Pennsylvania Supreme Court will grant review to look carefully again at the unfair limitation on damages," he said.

The high court upheld the cap in 1981 and 1986.

Zauflik was the most seriously injured of about 20 students hit by the out-of-control bus outside Pennsbury High School in January. She was in a medically induced coma for days and in a hospital for a month, ultimately undergoing more than 10 operations.

The district said the driver caused the accident. The driver said the bus malfunctioned.