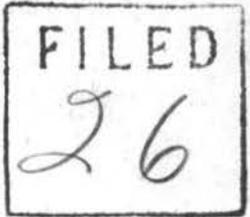


MOTOR VEHICLES: Provisions of Motor Vehicle Safety Responsibility Act inapplicable to claim allowed in bankruptcy proceeding.

October 1, 1948



10-11
Mr. R. N. Eidson, Supervisor
Motor Vehicle Registration Unit
Division of Collection
Department of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this office reading as follows:

"It is hereby requested that your Department render an official opinion as requested in the enclosed letter, viz: Whether the allowance of a Claim in Bankruptcy is the same as a judgment in a Civil Court?"

The facts relating to the allowance of the claim mentioned are set out in the letter enclosed with your opinion request from which we quote:

"On April 2, 1948, an automobile, driven by Mr. X, drove on the wrong side of the highway and across the black line on 23rd Street, a street in the Inter-City district in Jackson County, Missouri, and as a result, the car operated by Mr. X ran into an automobile owned and driven by Mr. Y, the collision occurring approximately one-half mile east of the Blue River and as heretofore stated, on 23rd Street.

"Demand was made on Mr. X for payment of \$239.76, the amount of damages sustained by Mr. Y. Suit was threatened and Mr. X filed a petition in bankruptcy, listing the claim of Mr. Y. Mr. Y filed an itemized statement of his claim and it was duly allowed by the bankruptcy court, thereby making Mr. Y a creditor and entitling him to share in the assets of the estate as a general creditor, provided there were

assets. As is so often the case of a bankrupt individual, the estate was a non-asset one and there was nothing left for the general creditors. Mr. X is now filing application for discharge and there having been no objections filed, he will be discharged."

We have taken the liberty of substituting other designations for the names of the persons mentioned in the letter.

The Motor Vehicle Safety Responsibility Act is now found as Article 5, Chapter 45, Mo. R.S.A. After providing for the suspension of drivers license, motor vehicle registration, etc., for conviction for certain specified criminal offenses, forfeiture of bail, etc., the act makes further provision for such suspension upon failure to satisfy judgments rendered in actions arising from the negligent operation of motor vehicles. We quote from Section 8470.15, Mo. R.S.A.:

"(a) The commissioner also shall suspend the license and all registration certificates or cards and registration plates issued to any person upon receiving authenticated report, as hereinafter provided, that such person has failed for a period of 30 days to satisfy any final judgment in amounts and upon a cause of action, as hereinafter stated."

Also Section 8470.19, Mo. R. S.A., reads in part as follows:

"(b) The clerk of a court or the judge of a court which has no clerk shall forward to the commissioner a certified record of any judgment for damages, the rendering and nonpayment of which judgment requires the commissioner to suspend the license and registrations in the name of the judgment debtor hereunder, such record to be forwarded to the commissioner immediately after such judgment has become final."

Your inquiry then presents the question of whether or not a claim allowed against a person adjudicated a bankrupt is comprehended within the terms "judgment" as used in the act.

In this regard, your attention is directed to the following definition of the word found as a part of Section 8470.12, Mo. R.S.A., reading as follows:

"'Judgment'. Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on any agreement or settlement for such damages."

From the foregoing, it seems that the term "judgment" as used in the act refers only to such judgments as might be rendered in an adversary action and upon the rendition of which the liability of the operator of the motor vehicle becomes fixed. No reference is made in the definition to allowed claims in bankruptcy such as the one described in the inquiry. On the contrary, we find the following contained in Section 8470.16, Mo. R.S. A.:

"(b) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this act."

The usage of the word "judgment" in these various statutes and the clear and unambiguous definition of the term which also appears in the act and which has been quoted supra seems to limit the application of the act to those judgments as fall within the definition.

The General Assembly has not seen fit to extend the operation of the Motor Vehicle Safety Responsibility Act to the nonpayment of claims against bankrupts as the particular case which is described in the letter of inquiry, nor has it seen fit to extend the operation of the act to failure to discharge other claims which might arise by reason of

Mr. R. N. Eidson

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settlements being made between the parties to motor vehicle collisions or other negligent operations resulting in personal injuries or property damage. We, therefore, must construe the act as it is written and limit its application to those institutions to which, by its own terms, it does apply.

CONCLUSION

In the premises, we are of the opinion that an allowed claim against a bankrupt which remains unsatisfied is not comprehended within the meaning of the term "judgment" as used in the Motor Vehicle Safety Responsibility Act.

Respectfully submitted,

WILL F. BERRY, JR.
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APPROVED:

J. E. TAYLOR
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WFB:VLM