

Families of accident victims denounce ruling upholding GM bankruptcy shield

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In the wake of a court decision last week upholding General Motors' (GM's) protection against lawsuits stemming from accidents before its 2009 bankruptcy, families of victims and their attorneys have denounced the ruling.

Meanwhile, it is reported that the number of approved death claims against the company stemming from an ignition defect has risen to 87.

GM had asked US bankruptcy judge Robert Gerber to uphold the shield contained in the US government-sponsored forced bankruptcy and restructuring of GM. Plaintiffs had argued that the company should be held liable for accidents prior to its July 2009 bankruptcy exit, since it knew of a deadly ignition defect tied to numerous fatal accidents but remained silent about it.

This means that accident victims and their families cannot sue for death or injuries sustained while driving defective GM vehicles prior to July 2009. The deadline for submissions for death and injury claims from a victim compensation fund established by GM in relation to the ignition defect was January 31. The ruling also blocks suits claiming economic damages for the loss of value of defective vehicles.

The qualifications for the victim compensation settlement were restrictive, only covering accidents involving front-end collisions where airbags failed to deploy in models subsequently subject to recall. The fund is expected to pay out a maximum of \$600 million, a tiny fraction of GM's annual revenues.

In the wake of the ruling, a GM spokesman remarked, "As a result of the ruling we expect there will be fewer plaintiffs with eligible claims."

In fact, Bob Hilliard, an attorney for accident victims, told the press that the ruling could save GM as much as \$10 billion in claims. "Hundreds of victims and their families will go to bed tonight forever deprived of

justice. GM, bathing in billions, may now turn its back on the dead and injured, worry free."

The ignitions on the 2.6 million vehicles, mostly Chevrolet Cobalts and Saturn Ions built between 2003 and 2007, that were ultimately recalled by GM can be easily jarred out of the "run" position, cutting power to the engine and disabling power steering, power brakes and airbags. Sudden engine cutoff can lead to loss of control under conditions where occupants are unprotected by airbags in the event of a crash.

An independent review of National Highway Traffic Safety Administration (NHTSA) statistics counted 303 deaths between 2002 and 2012 involving now-recalled GM vehicles in which airbags failed to deploy. For its part, GM stonewalled accident victims, often resorting to threats and intimidation.

The WSWWS spoke to Ken Rimer, stepfather of Natasha Weigel, who died in the 2006 crash of a Chevrolet Cobalt equipped with a faulty ignition switch. The family recently received a settlement through the victim compensation fund. The culpability of GM in Weigel's death was well documented. A Wisconsin state trooper made a report following the accident in which he tied airbag non-deployment to a defective ignition switch. Both GM and the NHTSA were aware of the report, but chose to ignore it.

Rimer denounced the decision by Judge Gerber to uphold the bankruptcy shield. "Our hearts go out to everyone impacted by the judge's ruling. Now these families are out in the cold. They lost their loved ones and have no legal standing.

"All the judge is looking at in this is information on pieces of paper. He is not looking into the broken hearts of those who lost loved ones."

He remarked, about the victim compensation fund, "In my heart I would like to believe that someone in

GM thought, ‘let’s make things right.’ But part of me believes it was the bottom line. Between the legal people and the bean counters they got together and said ‘let’s go with this, it will save money.’ ”

According to its web site, the victim compensation fund has received 4,343 claims to date relating to the ignition defect, including 475 death claims. However, only 244 have been deemed eligible, including 87 death claims and 11 claims for “category 1” injuries involving severe disabilities, among them multiple amputations or brain injuries. GM initially acknowledged only 13 deaths relating to the defect.

Kathryn Harvey, an attorney with MLG Automotive Law, a firm representing some GM accident victims, told the WWS, “It is egregious. You have a company admitting to responsibility for the deaths of 87 people, and families of people who were killed are not going to have a redress.

“They hid it from the bankruptcy court, and now the judge says that’s OK. If it doesn’t fit the criteria for the victim compensation fund and it happened pre-bankruptcy, you are out of luck. The case that started all of this, the death of Brooke Melton, would not have qualified. They did not even count it in their official death toll.”

In a letter to GM, Laura Christian, mother of Amber Marie Rose, who died in a 2005 crash involving a car with a defective ignition, chastised the automaker for taking a tax credit on its victim compensation payouts. “If GM is taking a deduction for these ignition switch settlements, then taxpayers, including GM victims, are literally paying General Motors for the deaths it caused.”

The court ruling upholding the bankruptcy shield comes despite the fact that internal company documents demonstrate that GM knew of problems with defective ignition switches as early as 2001.

Both GM and the NHTSA were aware of fatal crashes involving the now-recalled vehicles where airbags failed to deploy well before the 2009 bankruptcy filing. In fact, GM admits it knew of problems with the ignition switch on the Saturn Ion in 2001 but approved production anyway, despite the part not meeting its own specifications.

After receiving numerous customer complaints, including unfavorable press reviews, engineers in 2006 proposed a fix, but GM rejected it because of cost

considerations. Finally, in 2007, GM quietly ordered a new switch installed, but did not assign a new part number, a violation of engineering principles, which strongly suggested a deliberate cover-up.

As deaths and injuries mounted, GM steadfastly rejected a recall. It ignored clear evidence that the non-deployment of airbags was related to the defective ignition switch. According to an internal investigation ordered by GM, in 2009 then-CEO Rick Wagoner “may have viewed” a PowerPoint slide documenting the Cobalt’s past problems with accidental engine shutoffs. Wagoner later claimed he had no memory of the slide.

So far, no one has been held criminally liable at GM, and the company has faced merely a token fine of \$35 million, less than one day’s revenue. As in other cases involving flagrant corporate malfeasance, from the BP oil spill to the 2008 financial meltdown, the perpetrators have faced only the mildest consequences.



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