

# Texas Justices Open Door To Axing \$14M Truck Crash Verdict

By **Y. Peter Kang**

Law360 (April 19, 2024, 8:09 PM EDT) -- What started as a monster \$80 million trucking crash verdict but later was reduced to \$13.7 million was put in further jeopardy Friday when the Texas Supreme Court found that a lower appeals court erroneously declined to hear challenges to how the injured truck driver's employment status was determined.

The Lone Star State's highest court **reversed** an appeals court's affirmation of a \$13.7 million judgment in a suit accusing three related trucking companies of forcing a driver, Lauro Lozano, to alter his log book and then drive a load from Texas to Maryland without the required amount of rest, which caused the sleep-deprived driver to rear end another big rig, causing severe and permanent injuries.

A Hidalgo County jury found in 2019 that Lozano was entitled to a little more than **\$5 million in compensatory damages** for the losses, pain and injuries he suffered as a result of the crash, the opinion said. It further found that the three trucking companies — Anca Transport Inc., JNM Express LLC and Omega Freight Logistics LLC — all controlled by Jorge and Silvia Marin, should pay \$25 million each in punitive damages, according to court records. The companies had opted out of the state's workers compensation system, according to the opinion.

The verdict was later reduced pursuant to court rules regarding punitive damages awards, according to the opinion.

On appeal, the companies and the Marins raised arguments regarding whether they could be held liable and whether the damages were excessive.

The state high court said that before any of the arguments can be addressed, the question of whether Lozano could be considered an employee of the companies must be answered.

"The answer to this question, for example, may determine whether the companies and the Marins were entitled to a comparative-negligence instruction, which would have allowed the jury to assess whether Mr. Lozano himself bore some responsibility for choosing to continue driving despite being fatigued," the per curiam opinion states. "This issue in turn implicates other questions related to liability and whether the damages were excessive."

The justices said the Thirteenth Court of Appeals erred by refusing to consider the companies' argument that Lozano's employment status was wrongly defined by federal trucking industry regulations rather than the common law of Texas.

Looking at the case record, the high court said the companies did indeed preserve their argument that federal regulations should not be used at all and that common-law definitions regarding employment status should've been used instead.

"Petitioners repeatedly made similar arguments ... using common-law considerations (not the federal regulations' definitions) to argue that no defendants, and certainly not all, were Mr. Lozano's employer," the justices said. "Their answer to the Lozanos' petition also stated that Mr. Lozano was not their employee. This sufficiently put the trial court on notice of the objection."

In addition, the justices ruled that Lozano can't be considered an employee of Omega Freight

Logistics, a trucking brokerage company, because there was insufficient evidence of employment under both federal motor carrier standards and common law standards.

An attorney for the trucking companies, Laura Haley, told Law360 on Friday that she was pleased with the ruling and that the high court made the "absolutely right" decision.

"Neither the facts nor the law supported the trial court's judgment," she said via email. "It has taken a long five years to right this wrong. Based on the guidance the Texas Supreme Court provided, we look forward to the remanded proceedings and a successful conclusion of this case in the Thirteenth Court of Appeals."

An attorney for Lozano declined to comment Friday.

Lozano is represented by Brandy Wingate Voss and Melissa G. Thraikill of Law Offices of Brandy Wingate Voss, and Raymond L. Thomas Jr. of Ray Thomas PC.

The defendants are represented by Laura P. Haley and Gail M. Brownfeld of Haley Law Firm PLLC.

The case is JNM Express LLC et al. v. Lozano et al., case number 21-0853, in the Supreme Court of Texas.

--Editing by Adam LoBelia.