

5.30L EFFECT OF INTOXICATION ON DUTY OWING (By Automobile Driver) (Approved before 1983)

The driver of a vehicle is required to exercise the care which a reasonably prudent and sober person could exercise under the same or similar circumstances. The fact that a driver of a vehicle has been drinking and gives the appearance of being under the influence of alcohol does not in itself necessarily constitute negligence. However, it is proper evidence to be considered and weighed by you, along with all of the other evidence in the case, in determining whether negligence has been established.

If a person, although intoxicated, drives his/her vehicle in a proper manner and as a reasonably prudent and sober man would, he/she cannot be held liable for damage inflicted by his/her vehicle merely because he/she was intoxicated at the time. On the other hand, voluntary intoxication does not excuse his/her failure to exercise that degree of care, in the conduct and management of his/her vehicle, which would be exercised by a reasonably prudent and sober driver under the same or similar circumstances. If he/she does not exercise that degree of care, he/she is negligent, whether the failure to do so is caused by intoxication or not.

NOTE TO JUDGE

This charge may be modified to apply to other situations where the sobriety of a party is an issue.

Cases:

Roether v. Pearson, 36 *N.J. Super.* 465 (App. Div. 1955); *Petrone v. Margolis*, 20 *N.J. Super.* 180 (App. Div. 1952); *Tabor v. O'Grady*, 61 *N.J. Super.* 446 (App. Div. 1960).