

County liable for man's catastrophic biking incident in Bruce Peninsula, court rules



File photo of a recreational mountain bike rider. (Christian Lapid/The Canadian Press Images)

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TORONTO -- A man rendered quadriplegic after a mountain biking accident won his battle Tuesday to hold the Ontario municipality that operated the adventure park fully liable for his injuries.

In its decision, the **Ontario Court of Appeal rejected an appeal by the municipal County of Bruce that it was not at fault, and that the victim, Stephen Campbell, was at least partly responsible for his catastrophic injuries.**

"The reality is that several riders had been injured, including seriously injured, on the wooden obstacles in the trials area before (Campbell's) accident," the Appeal Court said.

"Had the municipality adequately monitored previous accidents and been aware of the number of accidents at the park -- and on Free Fall in particular -- actions would have been taken that would have prevented (Campbell's) injuries."

The incident occurred in August 2008 when Campbell, then 43, his wife and two children visited the Bruce Peninsula Mountain Bike Adventure Park, which featured bike trails and an area with 10 wooden obstacles for riders to learn trail riding. Signs warned riders to ride within their abilities.

Campbell, who was an experienced mountain biker, was attempting to tackle an obstacle known as Free Fall but didn't make it. In the ensuing tumble, he went over the handlebars and landed on his head, breaking his neck.

The main issue at trial, closely watched by other public authorities, was whether the county had taken sufficient care to ensure the safety of park users.

Court documents show the municipality had no tracking mechanism of incidents before the Campbell mishap, but ambulances had been called to the park at least seven times. In one case, three months before the Campbell incident, paramedics responded to a man who had broken his neck tackling a more difficult obstacle than Free Fall.

After a seven-day hearing, Superior Court Justice Marc Garson ruled last January that the municipality had failed in its duty of care. Among other things, Garson found Bruce had failed to post proper warning signs and had not properly monitored risks and injuries at the park.

The judge also decided Campbell had not been negligent in tackling the obstacle or in how he tried to salvage the situation when he realized he was falling.

In its appeal, the municipality argued in part its safety measures were reasonable, and that mountain biking is inherently risky.

"There is no doubt that (Campbell), an experienced mountain biker, assumed the risk of riding on the bicycle trails in the park," the Appeal Court said.

At the same time, the court found it unreasonable to expect a rider learning to tackle an obstacle to know beforehand the skills needed to succeed.

"On the question of what the appellant could have done differently, the trial judge was clear and concise," the court said.

"There were no instructional signs, no requirements to complete an easy trail...no warning of serious injury, and no instruction on how to extricate oneself from the feature."

The Appeal Court agreed with the trial judge that Campbell had not been careless in either his decision to try to ride Free Fall or in his actions to try to prevent a fall.