

## Child Injury Laws *Blog*

# Judge Allows Granny To Pursue Lawsuit Against Free-Wheeling-Toddler On Bike

Posted by [Jonathan Rosenfeld](#) on April 13, 2011

A recent New York Supreme Court decision will allow a personal injury lawsuit initiated by the estate of elderly woman, who sustained injuries prior to her death, to proceed against a four-year-old allegedly responsible for causing the injuries.

The case stems from an incident that took place in 2009 on a Manhattan sidewalk when two four-year-olds were riding their tricycles with their mothers and accidentally rode into an 87-year-old woman who was walking on the sidewalk.

When the four-year-old struck the elderly woman, she fell to the ground and fractured her hip requiring surgery. Three months after sustaining her injuries, the woman died from unrelated causes.

After the elderly woman's estate filed a lawsuit against the four-year-old and their mother's, a lawyer for one of the toddlers filed a motion to dismiss the case against the youngster based on the fact that she was incapable of negligence based on her young age.

Jonathan Rosenfeld offers legal services relating to: birth injuries, medical malpractice, day care abuse, foster care abuse, swimming pool injuries, automobile accidents, school bus accidents, dog bites, food poisoning, product liability, amusement park accidents and clergy abuse. For more information please visit Child Injury Laws Blog (<http://www.childinjurylaws.com/>) or call Jonathan directly at (888) 424-5757. ([www.rosenfeldinjurylawyers.com](http://www.rosenfeldinjurylawyers.com).)

In New York, the long standing tradition is that children under four are simply incapable of negligence given their age. Most other jurisdictions approaches when dealing with young children and lawsuits.

Certainly, the estate of the injured woman will still need to establish that this youngster's negligent conduct was responsible for the injury. However, as a [child injury lawyer](#), my fear is that other courts will look at this decision and allow comparative fault to be imposed on very young children who are victims of other people's negligent conduct-- in personal injury matters-- thereby diminishing their permissible recovery.

Related:

[4-Year-Old Can Be Sued, Judge Rules in Bike Case](#) The New York Times, October 28, 2010

[Comparative Fault to the Limits \(PDF\)](#) EM Publick – Vanderbilt Law Review, 2003

[Rosenfeld Injury Lawyers: Bicycle Accidents](#)

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