

One Accident, Two Stories

Disorientation or defective carburetor?
The larger answer is a defective system.

ON AUG. 1, 1999, A 1968 CHEROKEE SIX CRASHED SHORTLY AFTER takeoff from an airport in Ohio, killing the pilot and three passengers and seriously injuring a fourth passenger.

The NTSB version of the crash is straightforward. The airplane had landed to refuel and once its main tanks were filled, the five people got back on board. After takeoff, the Piper appeared to have a hard time climbing out and was “hanging on the prop.”

The airplane turned left and, initially nose high, slowly started to lose altitude. Altitude loss quickened, the nose fell through and the airplane maintained a sliding, left turn until it crashed about one-half mile southwest of the airport.

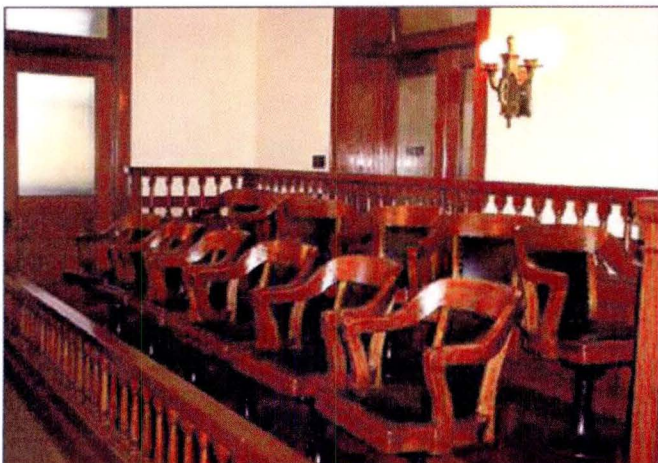
The engine was heard “roaring” prior to impact. Investigators found chord-wise scratches on the propeller blades and rotational marks on the starter housing.

The Safety Board determined the probable cause of the accident to be the pilot’s loss of control of the airplane during a turn. Factors included the pilot’s failure to maintain sufficient airspeed and proper trim.

However, more than a decade after the accident, a jury has reached a very different conclusion, awarding an \$88.7 million verdict against Avco Corp. The jury decided that pilot Lendon Pridgen was not at fault but found Lycoming Engines, an Avco subsidiary, 100-percent negligent.

This case serves as an example of how the courts have dealt with the General Aviation Revitalization Act of 1994. GARA was created to bar suits against manufacturers of airframes, engines and components. Suits are generally barred if the accident occurred more than 18 years after delivery of the aircraft to the first purchaser.

But the devil is in the details. A new part can reset the 18-year clock if the new part allegedly caused the accident. And the GARA limitation does not apply if it is proven that a



manufacturer knowingly misrepresented to the FAA, or concealed or withheld from the FAA, required information that is material and

relevant to the performance or the maintenance or operation of the aircraft or a part that is “causally related” to the accident.

In the Pridgen case, experts for the plaintiffs argued that the weight of the carburetor float, at some point, resulted in an uncontrollable amount of fuel delivery to the engine, which ultimately caused the engine to stop running. The plaintiffs’ experts also testified that wear and sticking occurred due to the metallurgical reaction between the brass and stainless steel components of the carburetor float assembly. And these experts also claimed that this information was known by the manufacturer, but was never provided to the FAA.

The “knowing misrepresentation” issue was presented to the jury. According to a press release by plaintiffs’ attorney Arthur Wolk: “This jury had no difficulty quickly making such a finding and then holding Lycoming Engines liable for defect, negligence and conduct justifying the imposition of punitive damages.”

“Compensatory” damages are awarded by juries to compensate a plaintiff for the loss of a loved one, including the loss of income. “Punitive” damages are awarded to a plaintiff to punish defendants that a jury believes to have acted reprehensibly in causing an accident. The Pridgen jury awarded \$64 million in punitive damages.

Why the gap between the NTSB’s assessment of an accident and the findings of a jury? According to attorney Wolk, the answer is politics: “The NTSB now permits the manufacturers of aircraft, whose accidents it investigates, to pass on promotions of NTSB air safety investigators to senior air safety investigator status. . . . if an investigator regularly finds a defect caused an aircraft accident instead of pilot error, he has essentially no chance of promotion.”

So, which system is broken, the courts or the NTSB? First, I have to admit my bias: I live among major aircraft manufacturers here in Kansas and I am a minor aircraft manufacturer. My friends in aircraft manufacturing chose their careers solely because they love aviation. They certainly didn’t take aircraft manufacturing jobs for the salary or job security. In my opinion, the NTSB is more reliable than the courts, but neither institution is perfect. If the engine failed, then the accident was neither 100 percent the result of pilot error, nor 100 percent the fault of Lycoming.

So here is a modest proposal: Give punitive damage money from such cases to the NTSB and/or the FAA instead of the plaintiffs and their attorneys. Both agencies need the money. And both agencies have greater power than any jury to directly affect air safety. **BCA**



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