

Norfolk Southern Railway Co. v. Shanklin
529 U.S. 344 (2000)

JUSTICE O'CONNOR delivered the opinion of the Court.

This case involves an action for damages against a railroad due to its alleged failure to maintain adequate warning devices at a grade crossing in western Tennessee. After her husband was killed in a crossing accident, respondent brought suit against petitioner, the operator of the train involved in the collision. Respondent claimed that the warning signs posted at the crossing, which had been installed using federal funds, were insufficient to warn motorists of the danger posed by passing trains. The specific issue we must decide is whether the Federal Railroad Safety Act of 1970, in conjunction with the Federal Highway Administration's regulation addressing the adequacy of warning devices installed with federal funds, pre-empts state tort actions such as respondent's. We hold that it does.

I.A.

In 1970, Congress enacted the Federal Railroad Safety Act (FRSA) "to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents." 49 U. S. C. § 20101. The FRSA grants the Secretary of Transportation the authority to "prescribe regulations and issue orders for every area of railroad safety," § 20103(a), and directs the Secretary to "maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem," § 20134(a).

The FRSA also contains an express pre-emption provision, which states:

"Laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement." § 20106.

* * * Three years after passing the FRSA, Congress enacted the Highway Safety Act of 1973, which, among other things, created the Federal Railway-Highway Crossings Program (Crossings Program). That program makes funds available to States for the "cost of construction of projects for the elimination of hazards of railway-highway crossings." * * *

The Secretary, through the Federal Highway Administration (FHWA), has promulgated several regulations implementing the Crossings Program. One of those regulations, 23 CFR § 646.214(b) (1999), addresses the design of grade crossing improvements. More specifically, §§ 646.214(b)(3) and (4) address the adequacy of warning devices installed under the program. According to 646.214(b)(3), "[a]dequate warning devices ... on any

project where Federal-aid funds participate in the installation of the devices are to include automatic gates with flashing light signals" if any of several conditions are present [editor's note - none of the conditions were present in the case]. * * * Subsection (b)(4) states that "[f]or crossings where the requirements of § 646.214(b)(3) are not applicable, the type of warning device to be installed, whether the determination is made by a State regulatory agency, State highway agency, and/or the railroad, is subject to the approval of FHWA." Thus, at crossings where any of the conditions listed in (b)(3) exist, adequate warning devices, if installed using federal funds, are automatic gates and flashing lights. And where the (b)(3) conditions are not present, the decision of what devices to install is subject to FHWA approval.

B.

Shortly after 5 a.m. on October 3, 1993, Eddie Shanklin drove his truck eastward on Oakwood Church Road in Gibson County, Tennessee. As Shanklin crossed the railroad tracks that intersect the road, he was struck and killed by a train operated by petitioner. At the time of the accident, the Oakwood Church Road crossing was equipped with advance warning signs and reflectorized crossbucks, the familiar black-and white, X-shaped signs that read "RAILROAD CROSSING,". The Tennessee Department of Transportation (TDOT) had installed the signs in 1987 with federal funds received under the Crossings Program. * * *

It is undisputed that the signs at the Oakwood Church Road crossing were installed and fully compliant with the federal standards for such devices at the time of the accident. Following the accident, Mr. Shanklin's widow, respondent Dedra Shanklin, brought this diversity wrongful death action against petitioner in the United States District Court for the Western District of Tennessee. Respondent's claims were based on Tennessee statutory and common law. She alleged that petitioner had been negligent in several respects, including by failing to maintain adequate warning devices at the crossing. Petitioner moved for summary judgment on the ground that the FRSA preempted state tort law claims. [The district court held that respondents allegation that the signs installed at the railroad crossing were inadequate was not preempted. A jury awarded damages to the respondent on the wrongful death claim and the petitioner appealed. The appellate court affirmed and the Supreme Court granted certiorari.]

II.

We previously addressed the pre-emptive effect of the FHWA's regulations implementing the Crossings Program in *CSX Transp., Inc. v. Easterwood*, 507 U. S. 658 (1993). In that case, we explained that the language of the FRSA's preemption provision dictates that, to pre-empt state law, the federal regulation must "cover" the same subject matter, and not merely "touch upon" or "relate to" that subject matter." Thus, "preemption will lie only if the federal regulations substantially subsume the subject matter of the relevant state law." * * *

Because [§§ 646.214(b)(3) and (4)] "establish requirements as to the installation of particular warning devices," we held that "when they are applicable, state tort law is pre-empted." [Those regulations] displace state and private decisionmaking authority by establishing a federal-law requirement that certain protective devices be installed or federal approval obtained." As a result, those regulations "effectively set the terms under which railroads are to participate in the improvement of crossings." * * *

The sole question in this case, then, is whether §§ 646.214(b)(3) and (4) "are applicable" to all warning devices actually installed with federal funds. * * *

[646.214(b)(3) and (4)] apply to any project where Federal aid funds participate in the installation of devices.

Sections 646.214(b)(3) and (4) therefore establish a standard of adequacy that "determine[s] the devices to be installed" when federal funds participate in the crossing improvement project. *Easterwood*, 507 U. S., at 671. If a crossing presents those conditions listed in (b)(3), the State must install automatic gates and flashing lights; if the (b)(3) factors are absent, (b)(4) dictates that the decision as to what devices to install is subject to FHWA approval. In either case, § 646.214(b)(3) or (4) "is applicable" and determines the type of warning device that is "adequate" under federal law. As a result, once the FHWA has funded the crossing improvement and the warning devices are actually installed and operating, the regulation "displace[s] state and private decisionmaking authority by establishing a federal-law requirement that certain protective devices be installed or federal approval obtained." * * *

The judgment of the Court of Appeals for the Sixth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.