GML 50-e: Section Superseded by Subsequent Special Enactment

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damages flowing from flooding caused by the rupture of a water main which was being repaired by employees of Consolidated Edison. Although negligence was not proven, the trial judge allowed recovery, against the City and Consolidated Edison, on the ground that substantial justice in these circumstances demanded application of the strict liability rule. The appellate term reversed the judgment regarding Consolidated Edison.

Strict liability in tort is a question of substantive law. Hence, the Appellate Term properly recognized that CCA 1804 bound the court to precedent. The decision of the lower court in Bierman is consistent with substantial justice, but the small-claims court is obliged to administer "substantial justice . . . according to rules of substantive law . . . ." If substantial justice is not in accord with substantive law, the former must yield.

GENERAL MUNICIPAL LAW

GML 50-e: Section superseded by subsequent special enactment.

Conflict between a general law and a subsequently enacted special law is resolved in favor of the special law. Illustrative of this principle is Reinhart v. Troy Parking Authority, wherein the Appellate Division, Third Department, affirming the Supreme Court, Rensselaer County, held that the time requirement of title 8 of the Public Authority Law, a 1960 special enactment, superseded section 50-e of the General Municipal Law. Plaintiff had filed his notice of claim with the proper authority within six months from the accrual of his action but more than ninety days thereafter. This constituted timely filing under the controlling statute.

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263 60 Misc. 2d at 499, 302 N.Y.S.2d at 698.
264 66 Misc. 2d at 238, 320 N.Y.S.2d at 333. It should be noted that the plaintiff still received a judgment against a supposedly solvent party, i.e., New York City.
265 Courts of original jurisdiction do not make the law but follow it as developed by the appellate court decisions, even though the controlling precedents conflict with the views of the court of original jurisdiction, or are admittedly erroneous. 1 CARMODY-WAIT 2d § 2:58 (1965).
268 Id. at 654, 318 N.Y.S.2d at 853.