IN THE COURT OF APPEALS OF IOWA

No. 0-31 / 89-0450

JERRY LEON POWELL,
Plaintiff,

and

DAVID ALLAN PRICE,

Plaintiff-Appellant,

vs.

RAND EUGENE PERDUE, HAROLD PERDUE, and PATRICIA PERDUE,

Defendants-Appellees.

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CLERK SUPREME COURT

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Appeal from the Iowa District Court for Wapello County, Phillip R. Collett, Judge.

Plaintiff appeals the denial of a motion for new trial. **AFFIRMED.**

Daniel P. Wilson, of Drake, Wilson & Jay, Centerville, for the appellant.

John N. Moreland, of McKay, Moreland & Webber, Ottumwa, for the appellee.

Heard by Donielson, P.J., and Sackett and Habhab, JJ.

PER CURIAM 184

Plaintiff David Allan Price appeals following the trial court's refusal to grant him a new trial in his suit claiming damages from defendants Rand Eugene Perdue, Harold Perdue, and Patricia Perdue for personal injuries sustained in an automobile accident. We affirm.

Plaintiff first contends he should have been granted a new trial because the damage award of $4,000 was inadequate. Defendant broke his thumb and hurt his neck, shoulder, back, elbow, and hand in the accident. After the accident, which occurred on October 2, 1986, he was treated in the emergency room of the Ottumwa regional hospital and released. On November 4, 1986, he saw Dr. Donald Berg of Ottumwa for an office visit. Dr. Berg's opinion was that plaintiff would not have any permanent problem with the injury. About a year later, plaintiff sought additional medical assistance.

Just prior to trial, on January 17, 1989, plaintiff had surgery on the thumb. He claimed medical expenses of about $4,200. About $3,200 of this amount was incurred at the time of surgery.

Inadequacy of damages may be cause for granting a new trial. Householder v. Town of Clayton, 221 N.W.2d 488, 492 (Iowa 1974). The trial court has considerable discretion in ruling on motions for new trial. Householder, 221 N.W.2d at 493. The jury here had the right to decide

whether the itemized damages, including medical bills, were caused by the accident. Kaiser v. Stathas, 263 N.W.2d 522, 526 (Iowa 1978). The jury had the right to reject expenses associated with the surgery. Miller v. Eichhorn, 426 N.W.2d 641, 643 (Iowa App. 1988). The trial court did not abuse its discretion in refusing to grant a new trial.

Plaintiff contends the trial court should not have given an instruction that if plaintiff could have received medical treatment and failed to do so, he could not recover damages that could be avoided. There was testimony that the surgery, if done when the condition was diagnosed, could have resulted in fewer problems. We find no error. See Miller, 426 N.W.2d at 643.

AFFIRMED.