FILED
JUN 25 1991
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-672 / 90-701

VIOLET JOHNSON and **ROBERT JOHNSON,**

Plaintiffs-Appellants,

vs.

PAYLESS CASHWAYS, INC.,

Defendant-Appellee.

Appeal from the Iowa District Court for Woodbury County, Gary E. Wenell, Judge.

Plaintiffs appeal from the trial court's refusal to order a new trial. **AFFIRMED.**

Cynthia H. Danielson of Danielson Law Office, P.C., Mt Pleasant, for appellant.

Carl A. Saunders of Saunders, Humphrey, Johnson & doyer, Ft. Madison, for appellee.

Considered by Hayden, P.J., and Sackett and Habhab, JJ.

SACKETT, J.

Plaintiff-appellant Violet Johnson claimed she was injured when an automatic door at defendant-appellee Payless Cashways, Inc., Sioux City store shut on her. Violet and her husband plaintiff-appellant Robert Johnson sued defendant for injuries Violet allegedly sustained. The jury found defendant 100 percent responsible for the accident and awarded damages in the amount of $10,000. The jury awarded no damages to Robert on his loss of consortium claim.

This appeal is premised on plaintiffs' contention the damage award was not adequate.

The jury, in returning the damage award, made the following answer to the damage question:

> What is the total amount of damages, if any, sustained by the plaintiff without taking into consideration any reduction of damages due to plaintiff's fault, if any, for the following:
>
> Answer:
>
a.	$ 8,539.18	Awarded for past medical services and expenses.
b.	$ 1,460.82	Awarded for the present value of future medical services and expenses.
c.	$ -0-	Awarded for past lost earnings.
d.	$ -0-	Awarded for the present value of loss of future earning capacity.
e.	$ -0-	Awarded for past loss of function of the mind or body.
f.	$ -0-	Awarded for the present value of future loss of function of the mind or body.
g.	$ -0-	Awarded for past physical and mental pain and suffering.

h.	$ -0-	Awarded for the present value of future physical and mental pain and suffering.
	$10,000.00	TOTAL DAMAGES AWARDED

Plaintiff made a motion for new trial contending the verdict was not adequate. The trial court overruled the motion and made the following findings:

> Plaintiff, Violet Johnson is a 60 year old, married woman who on May 24, 1988, entered the Payless Cashways Store in Sioux City,Iowa, and after passing through the first set of automatic double sliding doors, entered the second automatic door, walking closely behind her husband. Before getting all the way through the second door, it apparently came quickly shut on her, injuring her right shoulder or more specifically tearing her rotator cuff. She was subsequently treated by several physicians and about six months later had surgery on her shoulder.
>
> Medical testimony revealed a prior condition of bursitis in this shoulder for which she had been treated since 1979, the most recent time about six weeks before the incident. Also about nine weeks before the incident, the evidence suggested that the plaintiff suffered a bump to this same shoulder in an elevator door at the Marian Health Center. Mrs. Johnson had some loss of motion and is unable to perform certain household tasks. She was not employed outside the home except for selling a few hand made crafts.
>
> The evidence revealed no speed of closure problem with the automatic door immediately prior to the incident nor afterwards. Hundreds of persons use this door daily and an exhibit showed its normal operation.
>
> Although medical reports revealed her incident with the hospital elevator door and increase of pain three or four days before May 24, 1988, plaintiff denied telling physicians of either event. Such denial put the plaintiff's credibility in serious question. There was also evidence by the plaintiff that she wore an immobilizer more than directed and that doing so could lead to some loss of motion problems. * * *
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> To the extent the plaintiff's Motion relies on Rule 244(b) of the Rules of Civil Procedure, for its Motion for New Trial, based on inadequate damages, the Motion is overruled. * * *

The second issue on inadequacy of damages arises * * * from the use of this certain jury verdict form as opposed to a real inadequacy of the damage award question. * * * In spite of an instruction saying that physical and mental pain and suffering and future earning capacity cannot be measured by a mathematical standard, we do ask a jury to separate all of these items of damage and figures by this verdict form. Additionally, the instruction tells the jury not to include under one item the same damages under another item. The only specific and quantified damage evidence offered in this case was past medicals. The evidence of future medical expenses and medication requested through plaintiffs' argument was about $3,900.00 * * *. If the jury verdict were broken down into only two lines sufficient enough to make the interest determination required by Section 668.13, this Court believes that the issue of inadequacy of damages would either not arise or plaintiffs' argument would have considerably less initial appeal. However, since the amounts were totally awarded on the line for medical expense, this issue arises. The Court believes that requiring a new trial based on this or that line of where the jury places the damages, is paying homage to form over substance. The Court believes that the only line item in possible question is the failure to award any recovery for pain and suffering. The jury's decision with respect to no loss of earnings could easily be found for the plaintiff had only previously made a few crafts and had not even sold them at craft shows in recent years, but only made a few on order at home. The jury could well have found that due to her advancing age, and condition along with the condition of her husband that no income had been lost in the past nor would be in the future. With regard to loss of use of the body past and future, again the plaintiff had suffered bursitis in the shoulder since 1979 and had recurrence of the problem not only in 1988, but also within a few days before the accident. A jury could well find her loss of function due to the bursitis. With regard to the pain and suffering, the Court believes, as was said earlier, that the plaintiff's credibility was seriously questioned when in spite of medical records to the contrary, she denied telling Dr. Redwine about her pain in her shoulder a few days before the incident and further denied telling Dr. Paulsrud of the elevator door injury. The Court accordingly believes that a reasonable

> minded jury could believe the physician's testimony that the medical treatment was necessitated by this injury but due to plaintiff's credibility problems, disbelieved she suffered much if any pain arising out of this incident and accordingly only awarded her the exact amount of past medical bills plus a little for future medical expenses to reach a verdict of $10,000.00. If, as indicated above, the verdict of $10,000.00 was a general verdict and all on one line it would be a verdict beyond attack.

The factual findings of the trial court are in accordance with the evidence introduced at trial.

In ruling on a motion for new trial, a trial court has broad but not unlimited discretion. See Hardy v. Britt-Tech Corp., 378 N.W.2d 307, 310 (Iowa App. 1985). Generally a new trial is proper when (1) a jury finds a defendant liable but awards only special damages, see Allbee v. Berry, 254 Iowa 712, 717, 119 N.W.2d 230, 233 (1963); Yoch v. City of Cedar Rapids, 353 N.W.2d 95, 99 (Iowa App. 1984), (2) the jury rejects a claim for pain and suffering where special damages are shown, see Webster v. City of Colfax, 250 Iowa 181, 185, 93 N.W.2d 91, 94 (1958), or (3) the amount awarded for pain and suffering and permanent disability are inadequate.

A jury has to decide whether various items of damages are proximately caused by the defendant's negligence. Miller v. Eichhorn, 426 N.W.2d 641, 643 (Iowa App. 1988). If a verdict is within the evidence, we will not disturb the jury's award. Carter v. Wiese Corp., 360 N.W.2d 122, 133 (Iowa App. 1984).

Plaintiffs allude to the fact that the amount of the jury's verdict was equal to the medical expenses accrued. Nowhere in plaintiffs' brief do they refer to the amounts of special damages or to where evidence of the damages can be found in the record. It is not our responsibility to find this evidence.

The trial court found the sum of $10,000.00 fairly compensated plaintiffs for their injuries. Our review of the record causes us to agree with this conclusion. This is unlike Witte v. Vogt, 443 N.W.2d 715, 717 (Iowa 1989), where the supreme court ordered a new trial and found the award had *no* reasonable relationship to the element of damages. We find *no* abuse of discretion. We affirm.

AFFIRMED.