IN THE COURT OF APPEALS OF IOWA

No. 3-135 / 92-989

FILED
DEC 29 1993
CLERK SUPREME COURT

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DAVID B. PANAHI,

Appellant,

vs.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Appellee.

Appeal from the Iowa District Court for Polk County, Gene Needles, Judge.

David B. Panahi appeals a district court's decision, entered after a jury trial, on his claim for damages arising out of an uninsured motorist claim. **AFFIRMED.**

Christopher R. Pose, Des Moines, for appellant.

Patricia L. Vogel of Bradshaw, Fowler, Proctor & Fairgrave, P.C., Des Moines, for appellee.

Heard by Oxberger, C.J., and Sackett, J., and Keefe, S.J.*

*Senior Judge from the 1st Judicial District serving on this court by order of the Iowa Supreme Court.

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OXBERGER, C.J.

David Panahi was involved in an auto accident on April 13, 1989 when he was rear-ended by Nancy Smith as a result of her being rear-ended by Steven Walters, an uninsured motorist. Panahi and Smith were stopped at a red light. Smith and Panahi sustained minimal damage to their vehicles. Panahi complained of some neck pain following the accident but he did not seek immediate medical treatment. The next day, Panahi went to the hospital complaining of neck and upper back pain.

In July 1989, Panahi left Des Moines to enroll in medical school in Florida. In September 1989, Panahi began seeing Dr. Rentz for neck and upper back pain. At that time, Panahi was not exhibiting any other adverse symptoms. On October 25, 1989, Panahi complained to Dr. Rentz of rib pain. Later in January 1990, Panahi was treated for stomach pain. In February 1990, Panahi was diagnosed as suffering from a hernia. In March 1991, Panahi sought treatment from Dr. Rentz for lower back pain.

Panahi brought this uninsured motorist claim against his insurance carrier, State Farm. Panahi sought recovery for his past medical expenses, past lost wages, loss of body function, and past pain and suffering. Panahi also sought to recover loss of earning capacity, future loss of function of the body, future pain and suffering and future medical expenses. State Farm did not dispute liability but did dispute damages.

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A jury trial commenced on May 11, 1992. Dr. Rentz testified that he thought the stomach pain, lower back pain and the hernia were related to the auto accident. Dr. Rentz also testified that Panahi's symptoms were not commonly associated with an auto accident and could be attributable to academic pressures of medical school. He further testified Panahi had reached maximum medical improvement. State Farm's medical expert opined there was no causal connection between the injuries Panahi sustained in the auto accident and his hernia.

The jury returned a verdict finding State Farm liable for past medical expenses ($600), past lost wages ($1,700), past loss of function of the body ($1000) and past pain and suffering ($4,000). The jury did not award any amount for loss of earning capacity or future pain and suffering.

Panahi has appealed.

I. Denial of Motion for New Trial

Panahi claims the district court erred in denying his motion for new trial. He claims damages were inadequate and the jury's verdict appeared to be based on passion and prejudice.

In ruling upon motions for new trial, the trial court has broad but not unlimited discretion in determining whether the verdict effectuates substantial justice. Iowa R. App. 14(f)(3). Our task is to determine whether the trial court abused its discretion in not granting a new

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trial in light of the award made, not whether a higher verdict would have been justified by the evidence. Yoch v. City of Cedar Rapids, 353 N.W.2d 95, 99 (Iowa App. 1984). Ordinarily the jury should be allowed to settle factual disputes. Id. Precedents in this area are of little value; each case must be viewed independently according to certain well-established principles. Kaiser v. Stathas, 263 N.W.2d 522, 523 (Iowa 1978).

We will set aside a jury award only if it (1) is flagrantly excessive or inadequate; or (2) is so out of reason as to shock the conscience or sense of justice; or (3) raises a presumption it is a result of passion, prejudice or other ulterior motive; or (4) is lacking in evidentiary support. Olsen v. Drahos, 229 N.W.2d 741, 742 (Iowa 1975). The most important of the above numerated tests is support in the evidence. Yoch, 353 N.W.2d at 98. When the verdict is within a reasonable range as shown by the evidence, we will not interfere with what is primarily a jury question. Id. We view the evidence in a light most favorable to the verdict and give weight to the trial court's refusal to interfere after hearing and seeing the witnesses. Id.

We find the amount awarded Panahi adequately supported by the evidence. While his total medical bills for the year or so following the collision exceeded the amount awarded, the evidence clearly indicated that the collision may not have caused all of Panahi's injuries. Even

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Panahi's own expert testified his injuries were not those most commonly associated with a motor vehicle collision. State Farm's expert testified that Panahi's hernia was in no way caused by the injuries Panahi sustained in the collision. In light of the evidence, we find the jury's verdict bears an adequate relationship relationship to the loss suffered. We affirm the district court's denial of Panahi's motion for a new trial.

II. Grant of Motion for Directed Verdict on Issue of Future Medical Expenses.

Panahi next contends the district court erred in granting State Farm's motion for directed verdict on the issue of future medical expenses.

We review the district court's grant of a motion for directed verdict in a light most favorable to the non-moving party. Osborne v. Massey Ferguson, 290 N.W.2d 893, 902 (Iowa 1980).

Panahi's own expert testified that no further treatment could be done. Even viewing the evidence in a light most favorable to Panahi, we find no error in the district court's decision. We affirm the decision of the district court.

AFFIRMED.