IN THE COURT OF APPEALS OF IOWA

No. 8-592 / 98-0414

RICHARD SCHILTZ,

Plaintiff-Appellee,

vs.

LYLE HENRY,

Defendant-Appellant.

FILED
NOV 30 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Dubuque County, R. J. Curnan, Judge.

Defendant appeals from a district court order granting plaintiff a new trial on plaintiff's personal injury claim against defendant. **AFFIRMED.**

Douglas M. Henry and Norman J. Wangberg of Fuerste, Carew, Coyle, Juergens & Sudmeier, P.C., Dubuque, for appellant.

Francis William Henkels, Dubuque, for appellee.

Heard by Sackett, C.J., Huitink, J., and McCartney, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1997).

PER CURIAM

Defendant-appellant Lyle F. Henry and plaintiff-appellee Richard Schiltz were operating motor vehicles that collided. Plaintiff sued claiming damages for personal injury. Defendant admitted liability. A jury awarded plaintiff $1000. Plaintiff moved for a new trial or additur contending the verdict was not adequate. The district court granted plaintiff a new trial. Defendant appeals contending the district court abused its discretion in doing so. We affirm.

The accident occurred August 12, 1994, when defendant, driving a 1988 GMC pick-up, turned left in front of plaintiff's car at the intersection of Asbury and Hillcrest in Dubuque, Iowa. The front passenger side of plaintiff's car struck the passenger side of defendant's pick-up. Plaintiff testified the damage to his vehicle was $4000.

Plaintiff, a 61-year-old man, did not immediately seek medical assistance, though he claimed to have been shaken up in the accident. Defendant was not hurt in the accident. His pick-up sustained minor damage.

Plaintiff claimed he developed headaches following the accident. On August 19, 1994, seven days after the accident, plaintiff first sought medical treatment when he went to see Julian Nemmers, an orthopedic surgeon. X-rays revealed plaintiff had pre-existing arthritis. Nemmers testified the accident may have aggravated but not caused the condition. Physical therapy was recommended and plaintiff testified he spent 810 hours in an exercise program. Plaintiff further testified the therapy and exercises did not improve his condition, and at the time of trial he continued to experience headaches.

Nemmers gave the opinion on August 19, 1994, plaintiff would continue to have aggravation of symptoms as a result of the injury and he has a permanent impairment of seven percent as "a result of the whiplash-type injury which has aggravated the degenerative changes in the cervical spine."

The jury's verdict provided:

1.	Past medical and drug expenses:	$ 0
2.	Past loss of function of the body:	$ 500
3.	Future loss of function of the body:	$ 0
4.	Past physical and mental pain and suffering:	$ 500
5.	Future physical and mental pain and suffering:	$ 0
TOTAL of items 1 through 5:		$1000

The district court in granting a new trial found the damage award inadequate because it found the uncontroverted facts showed the verdict bore no reasonable relationship to the loss suffered. Defendant contends the district court in so ruling abused its discretion.

The district court has broad but not unlimited discretion in ruling on a motion for new trial. Iowa R. App. P. 14(f)(3). We are more reluctant to interfere with the granting of a new trial than its refusal. *Kiner v. Reliance Ins. Co.*, 463 N.W.2d 9, 13 (Iowa 1990).

It was stipulated plaintiff had certain medical bills totaling $1520 and they were fair and reasonable. Excluded from the stipulation was any agreement the bills were incurred as a result of the accident.

We cannot find under this record the district court abused its discretion. We affirm.

AFFIRMED.