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IN THE COURT OF APPEALS OF IOWA

Filed November 10, 1977

WILLIAM LEMKE,

Appellee,

v.

DORIS ANN NATVIG,

Appellant.

268
2-59234

Appeal from Buchanan District Court - Karl Kenline, Judge.

Defendant appeals from judgment on a jury award of actual and exemplary damages. Affirmed.

Upton B. Kepford, of Kennedy, Kepford, Kelsen & White, of Waterloo, for appellant.

Gene Yagla, of Lindeman & Yagla, of Waterloo, for appellee.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Defendant, Doris Ann Natvig, appeals from judgment on a jury award against her for $2500 actual and $8500 exemplary damages. She first contends that trial court erred in failing to limit the recovery of actual damages to $1404.90, the amount of the estimate introduced through Billie Howard Arnold for repairs to plaintiff's damaged 1942 Cadillac.

This is not a situation in which repairs had already been accomplished so that the cost could be fixed with absolute certainty. Rather, Arnold presented an estimate, and the jury was given evidence upon which it could find that the actual cost of repairs would be substantially higher than the estimate in Exhibit 21.

The question is governed by Young v. Blue Line Storage Co., 242 Iowa 125, 135-38, 44 N.W.2d 391 (1951). Trial court adequately informed the jury of the need to base its conclusions on the evidence. The very instruction complained of, number 12, emphasized that any award of damages must be based upon the evidence. There was no error in this respect.

Defendant also asserts that the award of $8500 as exemplary damages is excessive and the result of passion and prejudice. Principles applicable to appellate examination of exemplary damage awards are reviewed in Northrup v. Miles Homes, Inc. of Iowa, 204 N.W.2d 850, 861 (Iowa 1973). Hall v. Montgomery Ward & Co., 252 N.W.2d 421, 425-26 (Iowa 1977). Exemplary damages are intended to punish the defendant and to deter others from similar wrongdoing. Recognizing that the award must be relatively large and that the amount is peculiarly within the discretion of the trier of fact, we cannot say this award is excessive. Trial court did not abuse its discretion in overruling the motion for new trial. See Grefe v. Ross, 231 N.W.2d 863, 868-69 (Iowa 1975).

AFFIRMED.