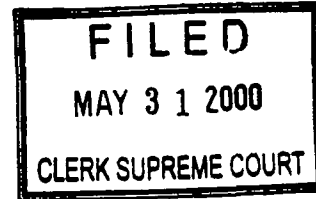


IN THE COURT OF APPEALS OF IOWA

No. 1999-594 (9-855) / 99-0757

Filed May 31, 2000



MITCHELL PARKER and DOROTHY PARKER,
Plaintiffs-Appellants,

vs.

THOMAS WALKER KELLY,
Defendant-Appellee.

Appeal from the Iowa District Court for Polk County, Donna L. Paulsen,
Judge.

Mitchell Parker appeals the jury verdict and the district court's entry of
judgment and denial of his motion for a new trial in his personal injury case.

AFFIRMED.

Timm W. Reid and Richard H. Doyle of Galligan, Tully, Doyle & Reid,
P.C., Des Moines, for appellants.

Rene Charles Lapierre of Klass, Stoos, Stoik, Mugan, Villone & Phillips,
L.L.P., Sioux City, for appellee.

Considered by Vogel, P.J., and Mahan and Miller, JJ.

PER CURIAM.

Plaintiff-appellant Mitchell Parker appeals the district court's denial of his motion for a new trial in his personal injury case. He claims the trial court erred in failing to grant him a new trial because the verdict awarding him \$1 for past pain and suffering was inconsistent and unsupported by the evidence, when the jury awarded damages for past medical expenses. We affirm.

Mitchell Parker filed suit against Thomas Kelly to recover damages resulting from a low-speed,¹ rear-end motor vehicle accident. Kelly admitted fault and the trial was on proximate cause and damages. Parker focused his claim for damages on erectile dysfunction that he said resulted from the accident. Kelly disputed all elements of Parker's damage claims. Parker claimed past medical expenses of \$7953, lost wages exceeding \$10,566, and pain and suffering. The jury returned a verdict of \$2500 for past medical expenses, \$1000 for past lost wages, and \$1 for past physical and mental suffering. The court denied Parker's motion for new trial.

Our review is for errors of law. Iowa R. App. P. 4. We review the denial of a motion for a new trial for an abuse of discretion. Iowa R. App. P. 14(f)(3). The trial court may grant a new trial if the jury awards inadequate or excessive damages. Iowa R. Civ. P. 244. "Damages awarded should be sufficient to right the wrong done to the injured party." *Yoch v. City of Cedar Rapids*, 353 N.W.2d 95, 99 (Iowa App. 1984).

¹ The speed was less than five miles per hour.

Parker claims the trial court erred in failing to grant his motion for a new trial because the special verdict awarding him only \$1 for past pain and suffering was inconsistent and unsupported by the evidence, especially when the jury awarded him damages for past medical expenses. He argues when a jury awards medical expenses for treatment of injuries but fails to award anything for pain and suffering, a new trial is warranted. We have no inflexible rule that every verdict awarding only damages for medical expenses in a personal injury action is inadequate as a matter of law. *Neumann v. Service Parts Headquarters*, 572 N.W.2d 175, 177 (Iowa App. 1997). We are more likely to affirm the denial of a new trial in cases where the cause or the extent of injury is disputed. *Id.* In this case, Parker chose to focus his claim on erectile dysfunction. Evidence of other causes such as diabetes² and stress was introduced. Parker's testimony on cross-examination could have caused the jury to question his credibility. The jury, as fact finder, has the ability to accept or reject testimony, even if it is uncontroverted. *Jackson v. Roger*, 507 N.W.2d 585, 589 (Iowa App. 1993). We, like the district court, will not set aside a verdict simply because we might have reached a different decision. *Waddell v. Peet's Feeds, Inc.*, 266 N.W.2d 29, 32 (Iowa 1978).

We cannot say the damages awarded appear to have been influenced by passion or prejudice, or are not sustained by sufficient evidence, or are contrary to law. See Iowa R. Civ. P. 244. A verdict need only bear a reasonable relationship to the damages to be upheld. See *Jackson*, 507 N.W.2d at 589. We

² Parker had suffered from diabetes for twenty-three years.

conclude the trial court did not abuse its discretion in denying Parker's motion for a new trial.

AFFIRMED.