IN THE COURT OF APPEALS OF IOWA

No. 2-045 / 91-947

FILED
JUN 25 1992
CLERK SUPREME COURT

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**CHERYL CRON,**

Plaintiff-Appellant,

vs.

**GREG BRITCHER,**

Defendant-Appellee.

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Appeal from the Iowa District Court for Polk County, Rodney Ryan, Judge.

Plaintiff appeals from jury awarded damages. **REVERSED AND REMANDED.**

Marc S. Harding, Des Moines, for appellant.

Kenneth R. Munro of Bradshaw, Fowler, Proctor & Fairgrave, Des Moines, for appellee.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ.

**SACKETT, J.**

The question in this appeal is whether the trial court should have granted a new trial in a personal injury case where the defendant admitted liability and the jury awarded plaintiff damages for past and future medical expenses but made no award for past and future pain and suffering. We reverse and remand.

The plaintiff-appellant Cheryl Cron was in a car that was hit from the rear by a car driven by defendant-appellee Greg Britcher. Plaintiff's car suffered damages of about $3,000. The plaintiff claimed as a result of the accident she received injuries to her back, neck, and knee. Plaintiff filed suit against the defendant for her damages. The defendant admitted liability, and the case was submitted to the jury on the issue of plaintiff's personal injuries only. The jury awarded plaintiff damages of $2,500. The jury allocated these damages as follows: $1,647.97 for past medical expenses, $752.03 for future medical expenses, and $100 for past loss of earnings. The jury made no awards for future loss of earnings or for past or future pain and suffering.

Plaintiff filed a motion for a new trial contending the amount of verdict was not adequate. The trial court denied the motion and entered a judgment in favor of plaintiff in the amount of $2,500.

Plaintiff appeals. She contends the trial court abused its discretion in failing to grant her a new trial.

A party may be granted a new trial when a jury awards excessive or inadequate damages. See Iowa R. Civ. P. 244(d) and (f). In ruling on a motion for a new trial, the trial court has broad but not unlimited discretion. See Cowen v. Flannery, 461 N.W.2d 155, 157 (Iowa 1990). We are slower to interfere with an order granting a new trial than with a denial of an order granting a new trial. Iowa R. App. P. 14(f)(4).

The jury here was directed to itemize damages on a special verdict form. The findings on the special verdict form must be supported by the evidence. Cowan, 461 N.W.2d at 158.

The jury's findings in allowing medical expenses but not allowing any award for pain and suffering in the past is inconsistent. See Cowan, 461 N.W.2d at 160.

The defendant contends the plaintiff did not preserve error on this issue because she did not seek a new trial on the basis of an inconsistent verdict. The plaintiff's motion contended she should have a new trial because, despite awarding her medical expenses, she was awarded nothing for pain and suffering. This sufficiently alerted the trial court to the issue.

Plaintiff has contended only the issue of loss of earnings and pain and suffering should be resubmitted. We disagree. The plaintiff's injuries were not great, and our review of the record convinces us the jury may have

compromised the pain and suffering because all medical expenses, though disputed, were awarded. We reverse and remand for a new trial on the total damage issue.

**REVERSED AND REMANDED.**