

Reyes v New York City Tr. Auth.
2015 NY Slip Op 02434
Decided on March 24, 2015
Appellate Division, First Department
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Decided on March 24, 2015

Tom, J.P., Renwick, DeGrasse, Manzanet-Daniels, Clark, JJ.

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[*1] Adelina Reyes, Plaintiff-Respondent,

v

New York City Transit Authority, Defendant-Appellant.

Lawrence Heisler, Brooklyn (Timothy J. O'Shaughnessy of counsel), for appellant.

Jamie C. Rosenberg, New York, for respondent.

Judgment, Supreme Court, Bronx County (Wilma Guzman, J.), entered November 13, 2013, upon a jury verdict, to the extent appealed from as limited by the briefs, awarding plaintiff the principal amount of \$750,000 for future pain and suffering, unanimously affirmed, without costs.

The award for future pain and suffering does not "deviate[] materially from what would

be reasonable compensation" (CPLR 5501[c]) (*see e.g. Smith v Manhattan & Bronx Surface Tr. Operating Auth.*, 58 AD3d 552 [1st Dept 2009]; *Urbina v 26 Ct. St. Assoc., LLC*, 46 AD3d 268 [1st Dept 2007]; *Calzado v New York City Tr. Auth.*, 304 AD2d 385 [1st Dept 2003]). The trial evidence established that plaintiff suffered damage to her left knee, including a laceration requiring 15 staples, a tear of the medial meniscus, and three bulging discs, and that she developed post-traumatic arthritis in the left knee. Plaintiff underwent two years of physical therapy before resorting to arthroscopic surgery and, while her knee improved, she continued to experience pain, walked with a limp, and used a cane. Plaintiff's treating orthopedic surgeon testified that plaintiff would eventually need a total knee replacement, since the cartilage damage was severe and permanent. Moreover, plaintiff has difficulty standing and therefore, since the accident, has been unable to return to her work as a street vendor.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 24, 2015

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