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Mitchell v. Port of Authority of New York and New Jersey

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N.Y.A.D. 1 Dept. 2009.

--- N.Y.S.2d ----2009 WL 3029656, 2009 N.Y. Slip Op. 06636

This opinion is uncorrected and subject to revision before publication in the printed Official Reports.

Charla Mitchell, Plaintiff-Appellant,

v.

The Port of Authority of New York and New Jersey, Defendant-Respondent.

OPINION

1044 115258/93

Supreme Court, Appellate Division, First Department, New York

Decided on September 24, 2009

Tom, J.P., McGuire, DeGrasse, Freedman, JJ.

APPEARANCES OF COUNSEL

Jonah Grossman, Jamaica (Lawrence B. Lame of counsel), for appellant.

Weil, Gotshal & Manges LLP, New York (Gregory Silbert of counsel), for respondent.

Order, Supreme Court, New York County (Eileen A. Rakower, J.), entered April 7, 2009, which, upon defendant's motion to set aside the jury's verdict finding it liable and awarding plaintiff \$480,000 for future pain and suffering and plaintiff's motion to set aside the award of \$20,000 for past pain and suffering, set aside the verdict in its entirety and directed a new trial, unanimously affirmed, without costs.

The record demonstrates that the parties presented sharply conflicting evidence as to whether defendant's evacuation plan for the World Trade Center, which required plaintiff to walk down 100 flights of stairs after the bombing on February 26, 1993, was a substantial factor in causing her to slip and fall 10 days later. As to damages, while the jury awarded plaintiff \$480,000 for future pain and suffering for a period of 24 years, it awarded her only \$20,000 for past pain and suffering for the 16 years elapsed between the accident and the trial. In view of the severity of plaintiff's injury, the sharply contested issue of causation, and the inexplicable inconsistency of the damages awards, an impermissible compromise verdict is, as the trial court found, "strongly indicated" (*see [Moreno v Thaler, 255 AD2d 195 \[1998\]](#)*).

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: SEPTEMBER 24, 2009

CLERK

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