

Westlaw.

226 A.D.2d 701, 641 N.Y.S.2d 402

(Cite as: 226 A.D.2d 701, 641 N.Y.S.2d 402)

Supreme Court, Appellate Division, Second Department, New York.

Carlos TORRES, Appellant-Respondent,

v.

CITY OF NEW YORK, Respondent-Appellant.

April 29, 1996.

Plaintiff filed personal injury action, and jury entered verdict awarding plaintiff \$6 million for future pain and suffering, \$177,576 for past medical expenses, but nothing for past pain and suffering. The Supreme Court, Kings County, Ramirez, J., granted defendant's motion to set aside jury verdict and ordered new trial. Plaintiff appealed, and defendant cross-appealed. The Supreme Court, Appellate Division, held that verdict awarding \$6 million for future pain and suffering but nothing for past pain and suffering was irreconcilably inconsistent indicating likelihood that verdict was impermissible compromise based on sympathy for plaintiff, and thus new trial was warranted.

Affirmed.

West Headnotes

New Trial 275 ↪ 77(2)

275 New Trial

275II Grounds

275II(F) Verdict or Findings Contrary to Law or Evidence

275k77 Mistake, Passion, or Prejudice of Jurors

275k77(2) k. Excessive Damages in General. Most Cited Cases

Verdict in personal injury action awarding plaintiff \$6 million for future pain and suffering and nothing for approximately 11 years of past pain and suffering was irreconcilably inconsistent and indicated strong likelihood that verdict was impermissible compromise based on sympathy for plaintiff, and thus trial court properly set aside verdict and ordered new trial on issues of liability and damages.

**403 Bernard F. Duhan, P.C., New York City (Norman E. Frowley, of counsel), for appellant-respondent.

Paul A. Crotty, Corporation Counsel, New York City (Barry P. Schwartz and Margaret G. King, of counsel), for respondent-appellant.

Before THOMPSON, J.P., and SULLIVAN, JOY and FLORIO, JJ.

MEMORANDUM BY THE COURT.

*701 In an action to recover damages for personal injuries, the plaintiff appeals and the defendant cross appeals, as limited by their briefs, from an order of the Supreme Court, Kings County (Ramirez, J.), dated June 22, 1994, which granted the defendant's motion to the extent of setting aside a jury verdict in favor of plaintiff and against it in the principal sum of \$6,177,576 (\$177,576 for past medical expenses and \$6,000,000 for future pain and suffering) and ordering a new trial on the issues of liability and damages.

ORDERED that the order is affirmed insofar as appealed and cross appealed from, without costs or disbursements.

The trial court properly set the verdict aside and ordered a new trial on the issues of liability and damages. The verdict awarding the plaintiff \$6,000,000 for future pain and suffering and nothing for approximately 11 years of past pain and suffering is irreconcilably inconsistent, and there is a strong likelihood*702 that the verdict was an impermissible compromise based on sympathy for the plaintiff. Since liability was established, an award of nothing for past pain and suffering is inadequate for the concededly serious injuries that the plaintiff suffered. Moreover, if no liability had been established, then the awards of damages for future pain and suffering and for past medical expenses are unwarranted (*see, Patrick v. New York Bus Serv.*, 189 A.D.2d 611, 612, 592 N.Y.S.2d 311; *Sheffield v. New York City Hous. Auth.*, 200 A.D.2d 369, 606 N.Y.S.2d 201; *Cochetti v. Galow*, 192 A.D.2d 974, 597 N.Y.S.2d 234).

Given the need for a new trial, it is unnecessary for us to reach the issue of the inadequacy or excessiveness of the damages in this case.

We have examined the parties' remaining contentions and find them to be without merit.

N.Y.A.D. 2 Dept., 1996.
Torres v. City of New York
226 A.D.2d 701, 641 N.Y.S.2d 402

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.