

<b>Alfonso v Metropolitan Tr. Auth.</b>
2013 NY Slip Op 01198
Decided on February 26, 2013
Appellate Division, First Department
Published by <u>New York State Law Reporting Bureau</u> pursuant to Judiciary Law § 431.
This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on February 26, 2013

Mazzarelli, J.P., Acosta, Freedman, Richter, Gische, JJ.

9363 400038/09

**[\*1]Drucilla Alfonso, Plaintiff-Respondent,**

v

**Metropolitan Transit Authority, Defendant, New York City Transit Authority,  
Defendant-Appellant.**

Wallace D. Gossett, Brooklyn (Lawrence Heisler of counsel),  
for appellant.

Sullivan Papain Block McGrath & Cannavo P.C., New York  
(Brian J. Shoot of counsel), for respondent.

Judgment, Supreme Court, New York County (Barbara Jaffe, J.), entered July 25, 2011,  
upon a jury verdict, insofar as appealed from as limited by the briefs, awarding plaintiff  
\$450,000 for past pain and suffering and \$800,000 for future pain and suffering,  
unanimously affirmed, without costs.

Plaintiff, a 52-year-old office worker, fractured her right wrist, and injured her neck and right shoulder, after she was struck by a truck owned by the Transit Authority, and operated by an Authority track worker. Plaintiff sustained a comminuted intra-articular fracture of the distal radial metaphysis of her right wrist, and a cervical herniated disc. A closed reduction was performed in efforts to repair the wrist. When that failed, an open reduction surgery was performed with internal fixation (a plate and screws), which will remain in the wrist permanently. She underwent physical therapy for three months for her wrist, and an additional six months for her shoulder. Plaintiff was left with reduced ranges of motion, continued pain, and progressive arthritis in her wrist.

The jury's award for \$450,000 for past pain and suffering and \$800,000 for future pain and suffering did not deviate materially from reasonable compensation under the circumstances (*see Diouf v New York City Tr. Auth.*, 77 AD3d 600 [1st Dept 2010]; *Ramos v City of New York*, [\*2]68 AD3d 632 [1st Dept 2009]; *Hayes v Normandie LLC*, 306 AD2d 133 [1st Dept 2003], *lv dismissed* 100 NY2d 640 [2003]; *Cabezas v City of New York*, 303 AD2d 307 [1st Dept 2003]; CPLR 5501[c]).

THIS CONSTITUTES THE DECISION AND ORDER  
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: FEBRUARY 26, 2013

CLERK

[Return to Decision List](#)