



231 A.D.3d 1180, 219 N.Y.S.3d 416  
(Mem), 2024 N.Y. Slip Op. 05362

**\*\*1** Rizwan Sharif, Appellant,  
v  
Pritam Property, Inc., Defendant.

Supreme Court, Appellate Division,  
Second Department, New York  
2021-09103, 2022-02868, 712395/19  
October 30, 2024

CITE TITLE AS: Sharif v Pritam Prop., Inc.

#### HEADNOTE

Damages

Inadequate and Excessive Damages

Pain and Suffering—Award Deviated Materially from What  
Would be Considered Reasonable Compensation

Silberstein, Awad & Miklos, P.C., Garden City, NY (Michael  
D. Schultz of counsel), for appellant.

In an action to recover damages for personal injuries,  
the plaintiff appeals from (1) a decision of the Supreme  
Court, Queens County (Pam B. Jackman Brown, J.), entered  
November 9, 2021, and (2) a judgment of the same court  
entered March 11, 2022. The judgment, insofar as appealed  
from, upon an order of the same court (Timothy J. Dufficy,  
J.) entered August 27, 2020, granting the plaintiff's motion  
for leave to enter a default judgment on the issue of liability  
against the defendant, and upon the decision, made after an  
inquest on the issue of damages, is in favor of the plaintiff and  
against the defendant in the principal sum of only \$100,000.

Ordered that the appeal from the decision is dismissed.

**\*1181** without costs or disbursements, as no appeal lies from  
a decision (*see Schicchi v J.A. Green Constr. Corp.*, 100 AD2d  
509 [1984]); and it is further,

Ordered that the judgment is modified, on the law and the  
facts, by increasing the award of damages to the plaintiff

from the principal sum of \$100,000 to the principal sum of  
\$400,000; as so modified, the judgment is affirmed insofar as  
appealed from, without costs or disbursements, and the matter  
is remitted to the Supreme Court, Queens County, for the entry  
of an appropriate amended judgment

The plaintiff was injured on June 17, 2019, when he  
slipped and fell off a chain-link fence on property owned  
by the defendant. The plaintiff thereafter commenced this  
action against the defendant to recover damages for personal  
injuries, asserting causes of action alleging violations of  
Labor Law §§ 200, 240 (1), and 241 (6) and common-law  
negligence. After the Supreme Court granted the plaintiff's  
motion for leave to enter a default judgment on the issue of  
liability against the defendant in an order entered August 27,  
2020, the plaintiff proceeded to an inquest on the issue of  
damages. After an inquest, the court awarded the plaintiff  
damages in the principal sum of \$100,000.

On appeal, the plaintiff contends that the award of damages  
is inadequate since it deviates materially from what would  
be reasonable compensation for his injuries. A determination  
with respect to an award for pain and suffering will not be set  
aside unless the award deviates materially from what would  
be reasonable compensation (*see* CPLR 5501 [c]; *Quijano v*  
*American Tr. Ins. Co.*, 155 AD3d 981, 983 [2017]; *Kayes v*  
*Liberati*, 104 AD3d 739, 741 [2013]; **\*\*2** *Guallpa v Key Fat*  
*Corp.*, 98 AD3d 650, 651 [2012]). "The 'reasonableness' of  
compensation must be measured against relevant precedent  
of comparable cases" (*Kayes v Liberati*, 104 AD3d at 741;  
*see* *Buckham v 322 Equity, LLC*, 229 AD3d 669, 674 [2024];  
*Halsey v New York City Tr. Auth.*, 114 AD3d 726, 727 [2014]).  
"Although prior damage awards in cases involving similar  
injuries are not binding upon the courts, they guide and  
enlighten them with respect to determining whether a verdict  
in a given case constitutes reasonable compensation" (*Miller*  
*v Weisel*, 15 AD3d 458, 459 [2005]; *see* *Vainer v DiSalvo*, 107  
AD3d 697, 698-699 [2013]).

Based upon the proof submitted at the inquest, the award of  
damages deviated materially from what would be reasonable  
compensation to the extent indicated herein. Iannacci, J.P.,  
Maltese, Wan and Golia, JJ., concur.

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