



240 A.D.3d 423, 235 N.Y.S.3d 49  
(Mem), 2025 N.Y. Slip Op. 03987

**\*\*1** Elizabeth Tavarez, Appellant,

v

920 East 173rd Street Realty  
LLC et al., Respondents.

Supreme Court, Appellate Division,  
First Department, New York  
2024-01568, 4663, 814623/21  
July 1, 2025

CITE TITLE AS: Tavarez v  
920 E. 173rd St. Realty LLC

#### HEADNOTE

Damages

Inadequate and Excessive Damages

Fractures to Fourth and Fifth Metacarpal Bones Which  
Healed without Surgery after Cast but Resulted in Limitations  
in Range of Motion for over One Year—Award Increased  
from \$4,500 to \$50,000

Eric Dinnocenzo, New York, for appellant.  
Order, Supreme Court, Bronx County (Naita A. Semaj, J.),  
entered December 27, 2023, which, after an inquest following

the grant of plaintiff's motion for a default judgment against defendants, directed judgment be entered in favor of plaintiff in the amount of \$4,500 for pain and suffering, unanimously modified, on the facts and in the exercise of discretion, to increase the aggregate award to \$50,000, and otherwise affirmed, without costs.

The award of damages for pain and suffering deviates materially from reasonable compensation to the extent indicated. Plaintiff presented evidence that she sustained fractures to the fourth and fifth metacarpal bones, which healed without surgery after being in a cast, but resulted in limitations in range of motion persisting over one year after the accident (*see Vogel v Cichy*, 53 AD3d 877, 880-881 [3d Dept 2008]).

However, the court's finding that other conditions affecting plaintiff's hand, including nerve conditions, were not causally related to the trip-and-fall accident is supported by a fair interpretation of the evidence (*see Nightingale Rest. Corp. v Shak Food Corp.*, 155 AD2d 297, 297 [1st Dept 1989], *lv denied* 76 NY2d 702 [1990]). Plaintiff did not submit any direct evidence of her medical costs related to the accident, but only a Medicaid lien letter, and therefore the court could properly find that the evidence did not support an award for medical costs.

We have considered the remaining arguments and find them **\*424** unavailing. Concur—Moulton, J.P., Gesmer, Pitt-Burke, Higgitt, Michael, JJ.

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