

SUPREME COURT OF NEVADA

Lee v. Ball, 121 Nev. 391

116 P.3d 64 (2005) · No. No. 41686 · Decided July 28, 2005

SUMMARY

The Supreme Court of Nevada held that additur may be granted only as an alternative to a new trial on damages, and that the district court erred by imposing additur without offering that option. The court also held that the district court incorrectly calculated prejudgment interest under NRS 17.130(2), reversed the judgment, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Maupin, J.; Douglas, J.; Parraguirre, J.
JURISDICTION	Nevada
DECIDED	July 28, 2005
DOCKET	No. 41686
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a district court judgment awarding the plaintiff an additur and prejudgment interest after a jury trial.
STANDARD OF REVIEW	The Supreme Court reviewed the additur ruling for abuse of discretion and reviewed the statutory prejudgment-interest calculation for legal error or plain error.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential.
PARTIES	Barry J. Lee v. Christopher G. Ball

TOPICS

- damages
- prejudgment interest
- remedies
- appellate procedure
- standard of review

PRACTICE AREAS

- civil procedure
- appellate procedure
- remedies
- torts

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by granting an additur without offering the defendant the alternative of a new trial limited to damages.
2. Whether Nevada law permits additur to stand as an independent remedy rather than as an alternative to a new trial on damages.
3. Whether the district court correctly calculated the rate and accrual period for prejudgment interest under NRS 17.130(2).
4. Whether the reversal of the district court's judgment affected Lee's entitlement to attorney fees and costs.

HOLDINGS

1. A district court may not grant additur as a stand-alone remedy. When additur is warranted, it must be presented to the defendant as an alternative to a new trial on damages.
2. The district court did not abuse its discretion in determining that additur was warranted because the jury's award was substantially less than the conceded special damages and therefore provided some indication that the damages were clearly inadequate.
3. Under NRS 17.130(2), prejudgment interest must be calculated using the single statutory rate in effect on the date of judgment, rather than by applying the periodic biannual rates in effect during the accrual period.
4. Prejudgment interest accrues from the date of service of the summons and complaint until the judgment is satisfied, subject to statutory exceptions.

KEY QUOTATIONS

“We clarify that, under Drummond, additur may not stand alone as a discrete remedy; rather, it is only appropriate when presented to the defendant as an alternative to a new trial on damages.” (116 P.3d at 66-67)

“Under the plain language of NRS 17.130(2), the district court should have calculated prejudgment interest at the single rate in effect on the date of judgment.” (116 P.3d at 67)

FACTUAL BACKGROUND

Christopher Ball was injured when Barry Lee negligently turned a vehicle into oncoming traffic. Ball sued Lee for general and special damages. After the jury awarded Ball \$1,300, substantially less than the conceded special damages, the district court granted Ball an \$8,200 additur and prejudgment interest without offering Lee the alternative of a new trial on damages.

PROCEDURAL HISTORY

After a two-day trial arising from a car accident, the jury awarded Ball \$1,300. Ball requested a new trial or, alternatively, additur, and the district court granted an \$8,200 additur and awarded prejudgment interest without giving Lee the option of accepting the additur or undergoing a new trial. The district court also calculated prejudgment interest using changing biannual rates and began accrual before service of process. Lee appealed,

challenging the additur, the failure to offer a new trial, the prejudgment-interest calculation, and his entitlement to attorney fees and costs.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for proceedings consistent with the opinion, including correction of the additur order to give Lee the option of accepting the additur or receiving a new trial limited to damages, and recalculation of prejudgment interest using the proper statutory rate and accrual period.

CASES CITED

- Drummond v. Mid-West Growers, 91 Nev. 698, 542 P.2d 198 (1975)
- Evans v. Dean Witter Reynolds, Inc., 116 Nev. 598, 5 P.3d 1043 (2000)
- Donaldson v. Anderson, 109 Nev. 1039, 862 P.2d 1204 (1993)
- Stover v. Las Vegas Int'l Country Club, 95 Nev. 66, 589 P.2d 671 (1979)
- Quintero v. McDonald, 116 Nev. 1181, 14 P.3d 522 (2000)
- Wallace v. Haddock, 77 Conn. App. 634, 825 A.2d 148 (2003)
- Bradley v. Romeo, 102 Nev. 103, 716 P.2d 227 (1986)
- Gibellini v. Klindt, 110 Nev. 1201, 885 P.2d 540 (1994)
- ITT Hartford Ins. Co. of the S.E. v. Owens, 816 So. 2d 572 (Fla. 2002)
- Runia v. Marguth Agency, Inc., 437 N.W.2d 45 (Minn. 1989)
- Tucci v. Moore, 875 S.W.2d 115 (Mo. 1994)
- Belanger by Belanger v. Teague, 126 N.H. 110, 490 A.2d 772 (1985)