

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Steven Updike v. American Honda Motor Company Incorporated

Updike · No. CV-21-01379-PHX-ROS · Decided January 30, 2026

SUMMARY

The United States District Court for the District of Arizona partially granted and partially denied Defendant American Honda Motor Company Incorporated’s motion in limine concerning cumulative and irrelevant damages evidence in a wrongful death action. The Court held that beneficiaries may present individualized testimony and corroborative third-party testimony based on personal knowledge, but evidence concerning the decedent’s premortem pain and suffering is not compensable in the wrongful death action.

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Steven Updike, No. CV-21-01379-PHX-ROS 10 Plaintiff, ORDER 11 v. 12
American Honda Motor Company Incorporated, 13 Defendant. 14 15 Before the Court is
Defendant American Hoda Motor Co.’s “Motion in Limine to 16 Limit Plaintiff’s Cumulative and
Irrelevant Damages Evidence.” (Doc.

212). Defendant 17 seeks exclusion of “evidence of damages that fall outside the scope of what is
recoverable 18 in a wrongful death suit.” To this end, Defendant asks the Court to “either (a)
limit[] the 19 number of damage witnesses [P]laintiff may call, or (b) limit[] the amount of time
20 [P]laintiff has to present testimony on damages.” The Motion will be granted in part and 21
denied in part.

22 Statutory beneficiaries in a wrongful death suit include “the surviving husband or 23 wife,
child, parent or guardian.” A.R.S. § 12-612. If there are no surviving statutory 24 beneficiaries, the
action may be brought by the decedent’s personal representative on 25 behalf of the decedent’s
estate. Damages are limited to compensation for “injury resulting 26 from the death.” A.R.S. § 12-
613.

Both economic and non-economic damages such as 27 “anguish, sorrow, stress, mental suffering,
pain and shock,” City of Tucson v. Wondergem, 28 466 P.2d 383, 387, are available, but must
pertain only to the individual beneficiaries, not 1 the estate. Evidence regarding the “manner of...
death” may be relevant “insofar as [it] 2 may have added to [the] wrongful death plaintiff’s
anguish resulting from the death, as 3 opposed to anguish caused by knowledge of premortem
pain suffered by the decedent.” 4 Girouard v. Skyline Steel, Inc., 158 P.3d 255, 259-60 (Ariz.

Ct. App. 2007) (emphasis 5 added). 6 Plaintiff correctly notes they bear the burden of proof as to the unique damages of 7 each wrongful death beneficiary and, as such, Plaintiff is entitled to present the testimony 8 of each beneficiary and, to the extent it remains corroborative rather than cumulative, the 9 testimony of third parties. That testimony, however, must be limited to that within “the 10 scope of what is recoverable in a wrongful death suit” (Doc.

212 at 2). 11 Evidence regarding the manner of death in this case may be relevant to damages to 12 the extent “it reflects [the beneficiaries’] mental anguish from the manner of death, rather 13 than the suffering of the decedent and any balancing under Rule 403.” Girouard. But “to 14 the extent the evidence of manner of death [deals] with premortem pain and suffering, it is 15 irrelevant” in a wrongful death suit.

In this case, while the knowledge that the decedent’s 16 “manner of death was slow and painful” and “the shock and mental anguish of seeing Jim 17 as a paralyzed, fragile, and unrecognizable man, unable to breathe on his own, but alert, 18 agitated, and in pain” (Doc. 219 at 7) are unquestionably real and agonizing, they are not 19 legally compensable in a wrongful death suit as they constitute injury arising from the 20 decedent experiencing premortem pain and suffering.

As such, this testimony may be 21 excluded as irrelevant to the issue of damages. 22 Any testimony must be based upon personal knowledge and relate to the injury of 23 the beneficiaries resulting from the death. The opinions of any third parties giving their 24 testimony on the impact of the death on the beneficiaries must come from personal 25 knowledge, not hearsay, and meet the rigorous requirements of Federal Rule of evidence 26 701.

27 /// 28 /// 1 IT IS ORDERED the Motion in Limine to Limit Plaintiff's Cumulative and 2|| Irrelevant Damages Evidence (Doc. 212) is GRANTED IN PART and DENIED IN PART. 3 Dated this 30th day of January, 2026. 4 fo _ 5 (—. 7 Senior United States District Judge 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _3-