

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH DEPARTMENT

Lahren v. Boehmer Transportation Corp.

49 A.D.3d 1186 · Decided March 14, 2008

SUMMARY

In this personal injury action arising from a motor vehicle accident, defendants conceded liability and the jury awarded damages for various past and future losses. The court upheld the admission of surveillance evidence, the cross-examination concerning housing expenses, the future-damages award, and the denial of future loss-of-consortium damages. It also affirmed a collateral-source offset for future medical expenses under CPLR 4545(c).

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Department
WRITING FOR THE COURT	Present-Hurlbutt, J.P.; Smith, J.; Centra, J.; Lunn, J.; Fahey, J.
JURISDICTION	New York
DECIDED	March 14, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from Supreme Court's post-trial rulings concerning evidentiary issues, the adequacy of future damages and loss-of-consortium damages, and a collateral-source offset.
STANDARD OF REVIEW	Whether the verdict materially deviated from reasonable compensation under CPLR 5501(c), whether a damages award was against the weight of the evidence, and whether evidentiary and trial-management claims were preserved for appellate review.
PRECEDENTIAL VALUE	Published Appellate Division decision; precedential within the applicable New York state court system.
PARTIES	Plaintiffs v. Defendants

TOPICS

- personal injury
- damages
- evidence
- preservation of error
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiffs waived their challenge to admission of the surveillance videotape by stipulating to its admission at trial.
2. Whether defendants could cross-examine plaintiff about her rent to show her financial ability to move to a residence better suited to her alleged disabilities and thereby mitigate damages.
3. Whether plaintiffs preserved their challenge to the time limit imposed on examination of their medical expert.
4. Whether plaintiffs preserved a challenge that the verdict was internally inconsistent.
5. Whether the awards for future damages materially deviated from reasonable compensation.
6. Whether the denial of future loss-of-consortium damages was against the weight of the evidence.
7. Whether Supreme Court properly granted a collateral-source offset for future medical expenses under CPLR 4545(c).

HOLDINGS

1. Plaintiffs waived appellate review of the admission of the surveillance videotape by stipulating to its admission at trial.
2. The trial court properly permitted cross-examination concerning the amount plaintiff paid in rent because the inquiry was relevant to whether she had the financial ability to move to a more appropriate residence and mitigate her damages.
3. Plaintiffs did not preserve for appellate review their challenge to the limitation of their attorney's direct and redirect examination of plaintiff's doctor because they failed to object at trial.
4. Plaintiffs failed to preserve their claim that the verdict was inconsistent because they did not object before the jury was discharged.
5. The award for future damages did not materially deviate from reasonable compensation.
6. The failure to award damages for future loss of consortium was not against the weight of the evidence.
7. Supreme Court properly granted a collateral-source offset for the award of future medical expenses because the evidence established with reasonable certainty that the expenses would be replaced or indemnified by no-fault insurance.

KEY QUOTATIONS

“Although evidence of a party’s wealth generally is not admissible, the question at issue herein was not an inquiry solely into plaintiff’s wealth.” (1187)

“We conclude on the record before us that the award for future damages does not deviate materially from what would be reasonable compensation” (1188)

“Implicit in the award of damages for future medical expenses was the jury’s finding that the entire award was for expenses that will be medically necessary and causally related to the accident.” (1189)

FACTUAL BACKGROUND

LeeAnn Lahren was injured in a motor vehicle accident, for which defendants conceded liability. Plaintiffs sought damages including future medical, household, rehabilitative, pain-and-suffering, and loss-of-consortium damages. Evidence concerning plaintiff's future medical and rehabilitative needs, possible future surgeries, and limitations on recreational activities was contested, and surveillance evidence contradicted some testimony about those limitations. Plaintiff had no-fault automobile insurance coverage available to reimburse medically necessary and causally related medical expenses.

PROCEDURAL HISTORY

Plaintiffs brought a personal-injury action arising from a motor vehicle accident, and defendants conceded liability. After a damages trial, the jury awarded damages for past and future medical expenses, household expenses, pain and suffering, and past loss of consortium. Supreme Court denied plaintiffs' post-trial motion to set aside portions of the verdict and granted defendants a collateral-source offset for future medical expenses; the Appellate Division upheld those rulings.

DISPOSITION

affirmed

CASES CITED

- Matter of James Jerome C. v. Mary Elizabeth J., 31 A.D.3d 1184, 1184-1185 (2006)
- Wittman v. Wittman, 302 A.D.2d 914 (2003)
- Laidlaw v. Sage, 158 N.Y. 73, 103 (1899)
- Rupert v. Sellers, 48 A.D.2d 265, 269 (1975)
- Andrew v. Hurh, 34 A.D.3d 1331 (2006), leave denied, 8 N.Y.3d 808 (2007)
- Heraud v. Weissman, 276 A.D.2d 376, 377 (2000), leave denied, 96 N.Y.2d 705 (2001)
- McEwen v. Akron Fire Co., 251 A.D.2d 1044 (1998)
- Ramos v. Ramos, 234 A.D.2d 439 (1996)
- Lolik v. Big V Supermarkets, 86 N.Y.2d 744, 746 (1995)
- Phelinger v. Krawczyk, 37 A.D.3d 1153, 1154 (2007)
- Oden v. Chemung County Industrial Development Agency, 87 N.Y.2d 81, 83-84 (1995)
- Caruso v. LeFrois Builders, 217 A.D.2d 256, 258-259 (1995)