

NEBRASKA SUPREME COURT

Lewison v. Renner

298 Neb. 654 (2018) · No. No. S-17-173 · Decided January 12, 2018

SUMMARY

The Nebraska Supreme Court affirmed the denial of Barbara Lewison’s motion for a new trial after a jury returned a general defense verdict in her automobile negligence action against Carol Renner. The court held that Renner’s admission that the collision caused “some injury” did not concede that the collision caused all of Lewison’s claimed injuries or damages. Because Lewison’s expert testimony on causation was equivocal and she presented no evidence establishing the amount of medical expenses, the verdict was supported by the evidence.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Stacy, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Kelch, J.; Funke, J.; Moore, Chief Judge
JURISDICTION	Nebraska
DECIDED	January 12, 2018
DOCKET	No. S-17-173
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed the denial of her motion for new trial after a jury returned a general defense verdict in an automobile-negligence action.
STANDARD OF REVIEW	The denial of a motion for new trial is reviewed for abuse of discretion. An abuse of discretion exists when the trial court's reasons or rulings are clearly untenable, unfairly deprive a litigant of a substantial right, and deny just results.
PRECEDENTIAL VALUE	Published opinion; precedential Nebraska Supreme Court decision.
PARTIES	Barbara Lewison v. Carol Renner

TOPICS

- negligence
- expert testimony
- proximate cause
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying Lewison's motion for new trial after the jury returned a general verdict for Renner.
2. Whether Renner's admission that the collision caused "some injury" relieved Lewison of proving that her specific claimed injuries and damages were proximately caused by the collision.
3. Whether the evidence supported the jury's finding that Lewison failed to prove the causation and nature and extent of her damages.

HOLDINGS

1. Renner's unconditional admissions that she was negligent and that her negligence proximately caused the collision established the first two negligence elements as a matter of law and relieved Lewison of the burden to prove them.
2. When a defendant admits that a collision caused some injury but expressly denies the nature and extent of the plaintiff's claimed injuries and damages, the admission does not concede that the collision caused all of the injuries claimed.
3. When an alleged injury is subjective rather than objective, the plaintiff must establish the cause and extent of the injury through expert medical testimony sufficient to show causation as probable, or more likely than not; testimony based only on possibility or speculation is insufficient.
4. The general verdict for Renner was supported by the evidence because the jury could find that Lewison failed to prove either that the collision proximately caused her claimed injuries or the nature and extent of her damages.

KEY QUOTATIONS

"An admission of liability for an accident does not constitute an admission that all damages claimed by a plaintiff, even though undisputed in the record, were the proximate result of the collision." (666)

"when a defendant admits the collision caused 'some injury' but expressly denies the nature and extent of the injuries and damages claimed, it is improper to construe the admission as conceding the collision caused all of the injuries claimed by the plaintiff." (666)

FACTUAL BACKGROUND

On December 21, 2012, Carol Renner turned left in front of Barbara Lewison's vehicle in Kearney, Nebraska, causing a collision. Lewison was treated at an emergency room and later claimed neck, back, and wrist injuries, medical expenses, and pain and suffering. Renner admitted that her negligence caused the collision and that the collision caused some injury, but denied the nature and extent of the claimed injuries and damages. At trial, Lewison's medical experts offered equivocal or possibility-based causation testimony, and she offered no evidence of medical expenses or other special damages.

PROCEDURAL HISTORY

Barbara Lewison sued Carol Renner in the Buffalo County District Court, alleging that a collision caused injuries to her neck, back, and wrists. Renner admitted negligence and that the collision caused some injury, but denied the nature and extent of Lewison's claimed injuries and damages. The jury returned a general verdict for Renner, the district court entered judgment on the verdict and denied Lewison's motion for new trial, and Lewison appealed. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Armstrong v. Clarkson College*, 297 Neb. 595, 901 N.W.2d 1 (2017)
- *Macke v. Pierce*, 266 Neb. 9, 661 N.W.2d 313 (2003)
- *Latzel v. Bartek*, 288 Neb. 1, 846 N.W.2d 153 (2014)
- *Doe v. Zedek*, 255 Neb. 963, 587 N.W.2d 885 (1999)
- *Berggren v. Grand Island Accessories*, 249 Neb. 789, 545 N.W.2d 727 (1996)
- *Lange Building & Farm Supply, Inc. v. Open Circle "R", Inc.*, 210 Neb. 201, 313 N.W.2d 645 (1981)
- *Peitz v. Hausman*, 198 Neb. 344, 252 N.W.2d 628 (1977)
- *In re Estate of Radford*, 297 Neb. 748, 901 N.W.2d 261 (2017)
- *City of Ashland v. Ashland Salvage*, 271 Neb. 362, 711 N.W.2d 861 (2006)
- *Dolberg v. Paltani*, 250 Neb. 297, 549 N.W.2d 635 (1996)
- *Springer v. Smith*, 182 Neb. 107, 153 N.W.2d 300 (1967)
- *Golnick v. Callender*, 290 Neb. 395, 860 N.W.2d 180 (2015)
- *Holman v. Papio-Missouri River Nat. Resources Dist.*, 246 Neb. 787, 523 N.W.2d 510 (1994)
- *Balames v. Ginn*, 290 Neb. 682, 861 N.W.2d 684 (2015)
- *Vredeveld v. Clark*, 244 Neb. 46, 504 N.W.2d 292 (1993)

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