

JAMIE MELENDEZ v. JOHN DELEO, AC 36810

Judicial District of Waterbury

Negligence; Whether Jury Award of Economic Damages Unaccompanied by Award of Noneconomic Damages Inconsistent. The defendant's vehicle struck the plaintiff's vehicle while the plaintiff was making a left turn at a Waterbury intersection. The plaintiff brought this action claiming that, as a result of the defendant's negligence, she suffered injuries to her head, shoulder, neck, back, and hip that caused her to miss work, incur medical bills, and experience pain and suffering. A jury returned a verdict for the plaintiff and awarded her \$15,213.41 in economic damages representing compensation for medical expenses, past lost wages, and damage to her car. The jury determined, however, that the defendant was only 60 percent at fault and it applied principles of comparative or contributory negligence to reduce the plaintiff's final award of economic damages to \$9,128.05. The plaintiff moved for additur or that the jury's verdict be set aside. Additur is the power of the trial court to increase the amount of an inadequate jury award. The plaintiff claimed that the verdict was inconsistent and unreasonable in that, while it awarded her all of her claimed economic damages, it awarded no noneconomic damages, which compensate a plaintiff for nonpecuniary losses including physical pain and suffering and mental and emotional suffering. The trial court denied the plaintiff's motion and rendered judgment on the verdict, noting that, in *Wichers v. Hatch*, 252 Conn. 174 (2000), the Connecticut Supreme Court held that an award of economic damages unaccompanied by an award of noneconomic damages is not inadequate as a matter of law and that, in reviewing such an award, the trial court should examine the evidence to determine whether the jury reasonably could have found that the plaintiff failed to prove noneconomic damages. In upholding the jury's implicit finding that the plaintiff had not proved her noneconomic damages, the trial court noted that the plaintiff's subjective complaints of pain, limitation of motion, dizziness, loss of consciousness and ill health were inconsistently documented and that there was no objective evidence presented that she suffered fractures, bleeding, bruising or other physical trauma. Finally, the court noted that the history of complaints recorded by the plaintiff's chiropractor was inconsistent with the complaints the plaintiff reported to the ambulance and hospital emergency room personnel who treated her. The plaintiff appeals, claiming that the award of economic damages but no noneconomic damages is fundamentally inconsistent and cannot stand. She claims that the award of economic damages established that the jury found the defendant liable for all of her injuries and that she adequately proved pain and suffering and that she sustained permanent injury as a result of the accident. Finally, the plaintiff asserts that, unlike other cases in which awards of zero noneconomic damages were upheld on appeal, there was no evidence here that she had any preexisting conditions or that she suffered some subsequent injury that caused her pain and suffering. The defendant argues that the plaintiff forfeited her appellate claims by rejecting the trial court's offer to have the jury clarify whether it intended to award zero noneconomic damages. The defendant also argues that, given the conflicting evidence on the issue of damages, the jury reasonably could have concluded that the plaintiff exaggerated both the nature and extent of her injuries.