

STATE OF MICHIGAN
COURT OF APPEALS

AMY G. BOLTZ,

Plaintiff-Appellant,

and

RUSS E. BOLTZ,

Plaintiff,

v

DOUGLAS BLAKEMAN,

Defendant-Appellee.

UNPUBLISHED

July 23, 2002

No. 229016

Oakland Circuit Court

LC No. 98-009145-NO

Before: Talbot, P.J., and Cooper and D.P. Ryan*, JJ.

MEMORANDUM.

Plaintiff Amy Boltz appeals as of right from a circuit court order denying her motion for a new trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court may grant a new trial where a verdict is against the great weight of the evidence or is contrary to law. MCR 2.611(A)(1)(e). The trial court's ruling on a motion for a new trial is reviewed for an abuse of discretion. *Meyer v Center Line*, 242 Mich App 560, 564; 619 NW2d 182 (2000). In reviewing the trial court's ruling, this Court must engage in an in-depth analysis of the record. *Arrington v Detroit Osteopathic Hosp Corp (On Remand)*, 196 Mich App 544, 560; 493 NW2d 492 (1992).

Plaintiff presented no evidence of any economic damages; her sole claim was for non-economic damages for pain and suffering. The evidence showed that plaintiff was bitten by defendant's dog and that she sustained minor physical injuries and extensive psychological injuries. Personal injury damages, particularly those for pain and suffering, are within the sound discretion of the trier of fact and there is no absolute standard for measuring such damages. *Meek v Dep't of Transportation*, 240 Mich App 105, 122; 610 NW2d 250 (2000).

* Circuit judge, sitting on the Court of Appeals by assignment.

Assessing witness credibility is the prerogative of the jury, *Kelly v Builders Square, Inc*, 465 Mich 29, 40; 632 NW2d 912 (2001), and the jury may disbelieve the most positive evidence, even when it stands uncontradicted. *Strach v St John Hosp Corp*, 160 Mich App 251, 271; 408 NW2d 441 (1987), citing *Baldwin v Nall*, 323 Mich 25, 29; 34 NW2d 539 (1948). Therefore, the jury is not required to award damages for pain and suffering, even where it finds that the plaintiff suffered an injury and incurred medical expenses. *Kelly, supra* at 39. Accordingly, we find the fact that the jury declined to award plaintiff damages for pain and suffering was not contrary to law and does not, in and of itself, warrant a new trial.

Affirmed.

/s/ Michael J. Talbot

/s/ Jessica R. Cooper

/s/ Daniel P. Ryan