

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STEPHEN W. PRINGLE and)	
ELLEN L. DARNELL,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 99-12-250
)	
FRED BARAKAT, as personal)	
representative of the ESTATE OF)	
ALBERT GUILFOIL, JR.,)	
)	
Defendant.)	

Submitted: November 12, 2004
Decided: December 8, 2004

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DECISION ON DAMAGES AFTER REMAND

Stephen W. Pringle (hereinafter “Pringle”) brings this action to recover for property damage and personal injuries arising out of an automobile accident with Albert Guilfoil, Jr., (hereinafter “defendant”) on December 30, 1997. Ellen L. Darnell, (hereinafter “Darnell”) was a passenger in the vehicle driven by Stephen W. Pringle and brings a claim for personal injuries. Defendant

in his answer denies liability and raises the defense of comparatively and contributory negligence. Defendant also asserts a counterclaim against Pringle and demands contribution and/or indemnification as to any verdict in favor of Darnell. A trial was held on June 20, 2003 where the Court found the parties equally 50% liable and denied the claims of all parties.

Pringle and Darnell appealed this Court's June 20, 2003 decision to the Superior court. In an opinion decided May 28, 2004, the Superior Court relying upon In Re Asbestos Pusey Trial Group v. Owens-Corning Fiberglass Corp., Del. Supr. 669 A.2d 108 (1995) reversed on the issue of damages. The Superior Court held that where plaintiff's negligence is 50% or less, his claim is not barred by the provisions of 10 Del. C. § 8132. Pringle and Darnell v. Lorraine Herbus as Personal Representative of Estate of Guilfoil, Jr., Del. Super., C.A. No. 03A-07-005CD, Del Pesco J., (May 28, 2004).

Following remand, this Court conducted a hearing on October 18, 2004, at the conclusion of which written submission was ordered. The final written submission was docketed November 12, 2004. This is the Court's decision following remand and written submissions.

Darnell, a passenger in Pringle vehicle, brought a claim for personal injuries as a result of the accident. Darnell testified at trial she was not bringing a suit for injuries. Trial Transcript at p. 143. However, she did testify that while she had prior back injury, she sustained additional injuries as a result of the accident. She stated she could not straighten her back. After the accident, she could no

longer engage in gardening activities; she had to take pills for pain and often she could not get out of bed due to the increased pain. Trial Transcript pps. 132-139. Based on this testimony, even in light of Darnell's comments of not seeking a claim for injuries, I find that there is credible evidence to sustain her claim for personal injuries. In reviewing Darnell's claim, the record does not contain any medical reports; which makes it difficult to evaluate her claim for damages.

However, I find there is credible evidence of injuries resulting from the accident and award the sum of \$3,000.00. Since Guilfoil is 50% liable, the amount against defendant is reduced to \$1,500.00 with pre-judgment and post-judgment interest.

Pringle brought a claim for personal injuries and property damages. He testified that as a result of the accident, he broke his false teeth; he sustained pain to his back, hips and knees. There was no follow-up medical treatment. However, he was out of work for three (3) months. He could not perform the job of a bricklayer and had to take an alternate job at a reduced hourly wage. Transcript at pps. 47-49. He testified the pain continued for six (6) months after the accident. In his remand submission, Pringle asserts a claim for \$1,100.00 for damages to bridgework, but there is no testimony in the record of the value or cost of this item.

Patrick Henry of Auto Collision Services testified he prepared an estimate to repair damage sustained to the Pringle's vehicle. The repair estimate was of \$5,007.75. Trial Transcript p. 89.

Based upon the testimony in the record, I find credible evidence of injuries sustained as a result of the accident. There is no evidence of follow-up medical treatment but I find the evidence is sufficient to sustain an award of \$2,000.00, which is hereby granted. There is no evidence of the value of the teeth bridgework; therefore, I find no basis for any award. The evidence indicates Pringle's vehicle was damaged in the amount of \$5,007.75.

Judgment is entered for Pringle for the total sum of \$7,007.75, which is reduced by 50%. Therefore, final judgment is entered for Pringle in the amount of \$3,503.88, pre-judgment interest, post-judgment interest and cost.

SO ORDERED this 8th day of December, 2004

Alex J. Smalls
Chief Judge