

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROLAND C. ANDERSON,	§
	§ No. 207, 2005
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
JOSEPHINE SILICKI,	§ C.A. No. 02C-04-153
	§
Defendant Below-	§
Appellee.	§

Submitted: March 13, 2007

Decided: May 8, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 8th day of May 2007, upon consideration of the briefs on appeal, the record below, and the parties' responses to the transcript of the Superior Court's April 26, 2005 hearing on the plaintiff's motion for additur or new trial, it appears to the Court that:

(1) The plaintiff-appellant, Roland C. Anderson, filed an appeal from the Superior Court's April 26, 2005 order denying his motion for additur or new trial.¹ Because we find no merit to Anderson's appeal, we affirm the judgment of the Superior Court.

¹ In ruling on Anderson's motion, the Superior Court simply signed the order that was attached, in blank, to the back of the defense attorney's response to the motion for additur

(2) The record reflects that Anderson filed a complaint in the Superior Court alleging that he suffered personal injuries as the result of an accident in which a vehicle driven by the defendant-appellee, Josephine Silicki, hit his parked vehicle from behind. The matter was tried before a Superior Court jury. The defendant did not contest liability or that Anderson had been injured in the accident. The jury awarded Anderson \$100.00 in damages.

(3) In the motion for additur or new trial, Anderson's counsel argued the following: a) the jury improperly ignored the evidence that Anderson incurred over \$9,000 in medical bills related to the accident; b) the jury improperly ignored the evidence that Anderson sustained a permanent injury as a result of the accident; c) the jury's award failed to provide Anderson with full and just compensation for his injuries; and d) the jury improperly based its award on Anderson's conduct in the courtroom, which caused the jury to be prejudiced against him.²

or new trial. The Superior Court did not provide any reasons supporting its decision. In order to determine the reasoning behind the Superior Court's denial of the motion, this Court ordered that the hearing on the motion be transcribed. The parties then filed responses to the transcript.

² Although Anderson seeks to present additional issues in this appeal, we are limited to a consideration of the issues presented in the motion for additur or new trial. *Cahall v. Thomas*, Del. Supr., No. 350, 2004, Holland, J. (May 16, 2005).

(4) We review the Superior Court's denial of a motion for additur or a new trial for an abuse of discretion.³ Under Delaware law, enormous deference is given to jury verdicts. Accordingly, an award of damages by a jury should be set aside only in the unusual case where it is clear that the award is so grossly out of proportion to the injuries suffered as to shock the court's conscience and sense of justice.⁴ A jury award meets this standard when it is so inadequate that it must have been based on passion, prejudice or misconduct rather than an objective consideration of the trial evidence. As long as there is a sufficient evidentiary basis for the amount of the award, the jury's award should not be disturbed by a grant of additur or a new trial on damages.⁵

(5) At trial, Anderson presented evidence that he had seen several doctors following the accident. The doctors' notes revealed inconsistencies in Anderson's description of the accident and his alleged injuries. Other than a single instance of objective evidence of muscle spasm, the doctors' diagnoses were based upon Anderson's subjective reporting of his symptoms. Anderson did not make a good appearance before the jury. His behavior on the witness stand was erratic and his testimony was inconsistent.

³ *Wilhelm v. Ryan*, 903 A.2d 745, 753-54 (Del. 2006).

⁴ *Id.*

⁵ *Id.*

He had to be convinced to sit down to testify. Anderson's credibility was seriously compromised when he tearfully testified that a doctor told him he might become paralyzed and when it came to light that he had made an insurance claim for lost wages as a result of the accident when he had not worked for ten years. Although Anderson testified that he was limited in his everyday activities, in the courtroom he appeared to have full mobility.⁶

(6) In this case, the jury's award of damages was not so grossly out of proportion to the injuries suffered as to shock the court's conscience and sense of justice. The record reflects that the jury's verdict was supported by the evidence presented at trial and was not based on passion, prejudice or misconduct. The jury clearly did not find Anderson's testimony to be credible, nor did it find Anderson's reporting of symptoms to his doctors to support the doctors' bills incurred. Thus, we do not find, under the circumstances of this case, that the Superior Court abused its discretion when it denied Anderson's motion for additur or new trial.

⁶ During deliberations, the jury sent a note to the judge asking if they could award only one dollar to the plaintiff. Because liability had been conceded and the evidence was that Anderson had sustained an injury in the accident, the Superior Court judge properly instructed the jury that some level of damages had to be awarded. *Maier v. Santucci*, 697 A.2d 747, 749 (Del. 1997).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice