STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

KENT, SC. **SUPERIOR COURT**

(FILED: May 6, 2015)

MAUREEN O'CONNELL and PAUL ROBERTI, in their capacities as Co-Administrators of the Estate of Brendan M. O'Connell Roberti, Plaintiffs	:	
v.	:	**C.A. No. KC-2005-0161**
WILLIAM WALMSLEY, Defendant	:	

DECISION

GALLO, J. This matter is before this Court on the cross-motions of the Plaintiffs and the Defendant for entry of judgment in their favor following remand by the Rhode Island Supreme Court.

This case involves a fatal automobile accident that occurred on March 9, 2003.[1] At approximately 10:30 p.m., Jason Goffe (Goffe) and Michael Petrarca (Petrarca) were driving a Toyota Corolla and a Ford F350, respectively, on the New London Turnpike. Brendan O'Connell Roberti (Roberti) was a passenger in Goffe's vehicle. Goffe and Petrarca were racing one another at high speeds when Goffe lost control of his car and spun into the eastbound lane. A third vehicle, operated by the Defendant, William Walmsley (Walmsley), travelling eastbound, collided with Goffe's vehicle. As a result of the accident, both Goffe and Roberti were pronounced dead at the scene.

[1] Reference may be made to O'Connell v. Walmsley for a more detailed recitation of the underlying facts. 93 A.3d 60 (R.I. 2014).

Suit was filed on February 28, 2005 by Plaintiffs, the parents of Roberti, against the following parties: Walmsley, the driver of the vehicle that struck Goffe's vehicle; Donald Goffe, owner of the vehicle operated by his son, Jason Goffe; and GEICO Insurance Company (GEICO), Goffe's insurer. Walmsley subsequently filed a third-party complaint against Petrarca and Tapco, Inc., operator and owner respectively of the vehicle that Goffe was racing, alleging that Petrarca's negligent driving contributed to the collision that caused the decedent's death.

Prior to trial, Plaintiffs settled with GEICO and Goffe in the amount of $145,000. As consideration for said settlement, Plaintiffs agreed to release GEICO and Goffe from any and all future claims for damages arising from the March 9, 2003 accident and, importantly, agreed that "all claims recoverable" by the Plaintiffs "are hereby reduced by the statutory pro rata share of negligence of . . . Goffe . . . under the Uniform Contribution Among Joint Tortfeasors Act of the State of Rhode Island, or the sum of . . . $145,000 . . . whichever is the greater reduction." (Goffe Release.)

Plaintiffs also settled with Petrarca and Tapco, Inc. prior to trial in the amount of $250,000. In language almost identical to the Goffe Release, Plaintiffs agreed as consideration for the settlement to release Petrarca and Tapco, Inc. from any and all future claims for damages arising from the March 9, 2003 accident and also to reduce "any damage recoverable by [Plaintiffs] against all other persons . . . jointly or severally liable" to them by the "pro rata share of liability of [Petrarca and Tapco, Inc.] . . . or in the amount of the consideration paid" pursuant to the settlement, "whichever amount is greater[.]" (Petrarca Release.)

On June 22, 2010, the matter proceeded to trial exclusively against Walmsley, the only Defendant who had not yet settled. A jury rendered a verdict in favor of Plaintiffs on July 2, 2010. In apportioning liability among tortfeasors, the jury specifically found Walmsley's

contributing fault in the accident to amount to 3%. The jury further determined Plaintiffs' damages, *without adjusting in accordance with percentages of liability*, to be $10,000. (Verdict sheet.)

Thereafter, Plaintiffs filed a Super. R. Civ. P. 59 (Rule 59) motion for a new trial and a motion for an *additur* to $250,000, the statutory minimum under G.L. 1956 § 10-7-2.[2] Walmsley in turn filed a Super. R. Civ. P. 50(b) (Rule 50) renewed motion for judgment. The trial justice granted Walmsley's motion and entered judgment in Walmsley's favor. Additionally, the trial justice ruled pursuant to Rule 50(c) that in the event his decision to grant Walmsley's Rule 50(b) motion was overturned on appeal, Plaintiffs' motions for an *additur* and for new trial would be conditionally granted: that is, if Plaintiffs did not accept the *additur* increasing the jury's verdict to $250,000, a new trial on both liability and damages would be held.[3]

The decision to grant Walmsley's Rule 50(b) motion was reversed by our Supreme Court on June 23, 2014, O'Connell, 93 A.3d 60, and accordingly, the case was remanded to this Court. On remand, Plaintiffs have moved for entry of judgment in their favor against Walmsley in the amount of $250,000 in accordance with the *additur*. Walmsley, on his part, has filed a motion for summary judgment requesting, in effect, a determination from this Court that he is not

[2] Section 10-7-2 states, in pertinent part: "[w]henever any person or corporation is found liable [for a wrongful death,] . . . he or she or it shall be liable in damages in the sum of not less than . . . $250,000[.]"

[3] It should be noted that it is Walmsley—the Defendant, and not Plaintiffs—who must consent to the entry of an *additur* in lieu of a new trial. Paniccia v. Weissinger, 442 A.2d 447, 448 (R.I. 1981) (citing Roberts v. Kettelle, 116 R.I. 283, 356 A.2d 207 (1976)). In passing upon the motions before it, this Court "look[s] to substance," not form. Sarni v. Meloccaro, 113 R.I. 630, 636, 324 A.2d 648, 651 (1974). Here, no appeal has been taken by either party with respect to the trial justice's Rule 50(c) ruling. Thus, both parties have, in effect, accepted the *additur* increasing the verdict to $250,000 and instead dispute the amount of the judgment, if any, to be entered against Walmsley in favor of Plaintiffs. It is that dispute that this Court will resolve herein.

obligated to pay any amount to Plaintiffs, because the jury verdict has been fully satisfied by virtue of the Goffe and Petrarca settlements.

Plaintiffs advocate for a literal and mechanical application of § 10-7-2 and contend that because Walmsley was found liable for a wrongful death, he must be liable for a judgment of $250,000 at a minimum, despite the marginal percentage of liability assigned to him. Additionally, Plaintiffs contend that the joint tortfeasors statute, § 10-6-7, does not provide for a mandatory reduction in damages for each release of a joint tortfeasor, but rather the language of the releases at issue should be controlling. Finally, Plaintiffs submit that the minimum recovery amount of $250,000 must be imposed against Walmsley because it is a special provision that conflicts with the general provisions of § 10-6-7 allowing a reduction in damages pursuant to the Goffe and Petrarca Releases.

Walmsley argues that the contractual language of the Goffe and Petrarca Releases is clear—that each release reduces the amount that "other tortfeasors" must pay to Plaintiffs—and that it should be enforced accordingly. Walmsley also emphasizes that a reduction in his liability pursuant to § 10-6-7 would not result in a violation of the minimum recovery set forth in § 10-7-2 because Plaintiffs have already received damages of $395,000, in excess of the $250,000 minimum amount.

Plaintiffs contend that § 10-7-2 mandates a judgment of $250,000 against Walmsley individually *in addition to* the sums received pursuant to the Goffe and Petrarca settlements. "It is a well settled principle of our law that this Court will not interpret a statute literally when doing so would lead to an absurd result, or one that is at odds with legislative intent." Berman v. Sitrin, 991 A.2d 1038, 1049 (R.I. 2010) (citing Raso v. Wall, 884 A.2d 391, 395 n.11 (R.I. 2005)). Based on the remedial and compensatory nature of the statute and damages principles

generally, it is clear that the purpose of the minimum damages requirement in § 10-7-2 is to provide a fixed, baseline recovery amount for any wrongful death plaintiff. See Petro v. Town of West Warwick ex rel. Moore, 889 F. Supp. 2d 292, 344-45 (D.R.I. 2012). The minimum damages requirement ensures that each wrongful death plaintiff is compensated in an amount that our Legislature has deemed to be a fair reflection of the minimum economic worth of each person, notwithstanding age, earning capacity, or economic status. By virtue of the Goffe and Petrarca settlements, this requirement—and the purpose for which it was established—have been fulfilled. See id. Plaintiffs in this case have received an award that meets—and, in fact, exceeds—the statutory minimum recovery amount under § 10-7-2.

It is also worth noting that if this Court were to adopt Plaintiffs' view, a wrongful death plaintiff would be benefitted in an amount directly proportionate to the number of tortfeasors whose conduct combined in causing the death. Surely our Legislature did not intend to mandate double or triple recovery in cases involving more than a single tortfeasor. The number of tortfeasors has no bearing on the losses flowing from the decedent's death, and awarding damages in accordance with the number of tortfeasors involved in a death does not advance the statute's compensatory and remedial purpose. Petro, 889 F. Supp. 2d at 344-45.

Moreover, it is "fundamental" that "an injured person is entitled to only one satisfaction of the tort, even though two or more parties contributed to the loss." Augustine v. Langlais, 121 R.I. 802, 805, 402 A.2d 1187, 1189 (1979). "[I]t is clear that the Rhode Island wrongful death statute was enacted with the aim of providing a decedent's beneficiaries with compensation of not less than $250,000," and joint tortfeasors are "jointly and severally liable"—not individually liable—for that amount. Petro, 889 F. Supp. 2d at 345 (emphasizing that § 10-7-2 is compensatory and remedial—not punitive—in nature). Here, Plaintiffs settled their claims

against Goffe and Petrarca for a total of $395,000. The letter and spirit of § 10-7-2 have been fulfilled, and there is no basis for holding Walmsley individually liable for $250,000. See id.

Furthermore, Rhode Island law is clear that a release of one joint tortfeasor by a claimant "reduces the claim against the other tortfeasors in the amount of the consideration paid for the release, or in any amount or proportion by which the release provides that the total claim shall be reduced, if greater than the consideration paid." Sec. 10-6-7. Moreover, under the Goffe and Petrarca Releases, Plaintiffs have a contractual obligation to reduce all claims arising from the accident against all other persons (i.e., tortfeasors other than Goffe and Petrarca) by the "pro rata share of liability" or by the amount of the consideration paid by Goffe and Petrarca for the releases pursuant to § 10-6-7. See Young v. Warwick Rollermagic Skating Ctr., Inc., 973 A.2d 553, 558 (R.I. 2009) (citing Lennon v. MacGregor, 423 A.2d 820, 822 (R.I. 1980)) ("the various principles of the law of contracts govern the judicial approach to a controversy concerning the meaning of a particular release"). There is no support—either statutory or otherwise—indicating that the joint tortfeasors statute does not apply to wrongful death judgments. In this case, both the law and the Goffe and Petrarca Releases require that any judgment Plaintiffs obtain against Walmsley must be reduced by $395,000 (the sum of the joint tortfeasor settlements). See § 10-6-7.

Based upon the foregoing, this Court determines that the $250,000 judgment against Walmsley has been fully satisfied by virtue of the Goffe and Petrarca settlements. Counsel shall prepare an order and judgment reflective of this decision and submit it to the Court forthwith for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**O'Connell v. Walmsley**
CASE NO:	**KC-2005-0161**
COURT:	**Kent County Superior Court**
DATE DECISION FILED:	**May 6, 2015**
JUSTICE/MAGISTRATE:	**Gallo, J.**
ATTORNEYS:	
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