

Commonwealth Of Kentucky

Court of Appeals

NO. 2006-CA-000202-MR

GEORGE F. INSKO, JR.

APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE THOMAS L. CLARK, JUDGE
ACTION NO. 03-CI-00479

MARK C. DENNO

APPELLEE

OPINION
AFFIRMING

** **

BEFORE: ABRAMSON, JUDGE; HUDDLESTON AND KNOPF, SENIOR JUDGES.¹

KNOPF, SENIOR JUDGE: The primary issue in this appeal is whether a jury award of zero following a directed verdict in favor of the plaintiff on the issue of liability is grossly inadequate. Under the facts of this case, we hold that it is not and affirm.

Appellant George F. Insko, Jr. was involved in a rear-end collision when his vehicle was struck by another vehicle while he was stopped at a traffic light. The next day Insko visited his physician for the treatment of injuries allegedly sustained in the

¹ Senior Judges Joseph R. Huddleston and William L. Knopf sitting as Special Judges by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

accident. X-rays were taken and Insko was prescribed medication. Four years later, Insko underwent a spinal fusion operation. Insko brought suit against appellee Mark C. Denno in Fayette Circuit Court seeking damages for the injuries he sustained as a result of the accident. The trial court granted a directed verdict in favor of Insko on the issue of liability and submitted the question of damages to the jury. Following a three-day trial, the jury awarded Insko zero monetary damages. This appeal follows.

Insko argues that the damages were grossly inadequate in light of the directed verdict on liability and the testimony of Insko's physician who treated him following the accident. We disagree.

Under facts remarkably similar to the present case, this Court held that a directed verdict on liability does not necessarily entitle a plaintiff to damages. *Carlson v. McElroy*, 584 S.W.2d 754, 756 (Ky.App. 1979). Insko argues that the evidence at least compels a finding of damages to compensate for the expense of his visit to the doctor following the accident. However, this assertion overlooks other evidence that demonstrated that Insko denied any injury at the time of the accident and that the doctor's appointment had been scheduled before the accident had actually occurred. There was ample evidence in the record that would allow the jury to conclude that the minor accident did not cause the injuries Insko claimed.

Insko next argues that the verdict was awarded under some passion or prejudice. However, he presents no evidence in support of this assertion beyond his complaint that their hour spent deliberating was somehow insufficient. As stated above,

there was ample evidence presented to support the jury's finding. Reversal is unwarranted.

Finally, Insko argues that the jury instructions were confusing and ambiguous. However, this argument is not properly preserved for review.

Accordingly, the judgment of the Fayette Circuit Court is affirmed.

HUDDLESTON, SENIOR JUDGE, CONCURS.

ABRAMSON, JUDGE, CONCURS IN RESULT ONLY.

BRIEFS FOR APPELLANT:

William S. Watts
Lexington, Kentucky

BRIEF FOR APPELLEE:

J. Stan Lee
Chrystal S. Lycan
Bowles, Rice, McDavid, Graff & Love,
LLP
Lexington, Kentucky