

STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

RECEIVED
COMMON PLEAS COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

JUL 24 2019

C/A NO: 2012-CP-19-00367

Mike Samadi,

Plaintiff

SC Court of Appeals

vs.

Peter Joseph Carroll and Roderick Clyde
Godwin,

Defendants.

**DEFAULT DAMAGES ORDER
AND JUDGMENT**

This matter came before the Court on October 1, 2018 pursuant to an Order of Default filed on May 15, 2017 holding the Defendants in default and ordering a hearing to determine the amount of the Plaintiff's damages. Mike Samadi ("Plaintiff") seeks damages for personal injuries sustained from a motor vehicle collision with another vehicle driven by Peter Joseph Carroll ("Carroll") that occurred on November 30, 2009. Roderick Clyde Godwin ("Godwin") was the owner of the vehicle driven by Carroll, and had given him permission to use it. Plaintiff's complaint asserted causes of action for negligence against Defendant Carroll and negligent entrustment against Defendant Godwin.

Neither Carroll nor Godwin (collectively "Defendants") appeared at the hearing. Defendants were sent notice of the damages hearing, return receipt requested, by certified mail pursuant to Rule 5(a), SCRPC. The Defendants' names were called within the courthouse. Neither Defendant answered. Plaintiff Mike Samadi, Helen Diamond, and Officer James Florida of the Edgefield County Sheriff's Office testified during the hearing.

Plaintiff submitted to the Court as exhibits medical records and billing statements generated during his medical treatment. Plaintiff's Exhibit 2 is an itemized billing statement from Augusta Sports Medicine.¹ Exhibits 3 and 4 are records of medical treatment at the Medical College of Georgia Hospital in Augusta, Georgia ("MCG"). Exhibit 5 is a bill for medical supplies, diagnostics, and surgery from Doctors Hospital in Augusta. Exhibit 6 is an itemized spreadsheet reflecting all expenses incurred by Plaintiff as a result of the collision as well as additional bills and receipts for medical expenses.

SUMMARY OF TESTIMONY AND EXHIBITS

¹ Plaintiff's Exhibit 1 is the police report from the incident.

Plaintiff testified that on November 30, 2009, he was traveling along Edgefield Road in Edgefield County. Carroll was driving Godwin's truck when he began to pursue Plaintiff at a high rate of speed. Carroll struck Plaintiff's truck in the rear numerous times, ultimately causing Plaintiff's truck to run off the road into the front yard of a resident and roll over. Plaintiff's truck was totaled as a result of the collision and several of his personal items—including a cellphone, a Bluetooth device, and a pair of eyeglasses—were destroyed. Plaintiff sustained major injuries and was transported by ambulance to MCG for emergency medical treatment and subsequent inpatient care. He was released on December 2, 2009. Plaintiff continued to experience pain in his neck and shoulder. Plaintiff subsequently visited Augusta Orthopedic and Sports Medicine Specialists ("Augusta Orthopedic"), where he was diagnosed with fractured vertebrae and pinched nerves in his neck. Plaintiff immediately returned to MCG for corrective surgery on his neck and was hospitalized for several days thereafter. Upon his discharge from the hospital, Helen Diamond accompanied him to his home and became his caretaker for the next several weeks while he recovered from the surgery.

Plaintiff was unable to work during this time and was forced to take out several loans to pay for his living expenses. He borrowed \$3,000 from National Newspaper Consult, \$7,400 from Jamshid Askary, and \$3,000 from Larry Johns.² Additionally, Plaintiff provided Helen Diamond with \$10,750 as compensation for the time she spent caring for him in his home since she was unable to go to work while she stayed with him. Plaintiff also was forced to replace several personal items that were destroyed in the collision, including a cellphone costing \$223.14, a Bluetooth device for \$42.79, and a pair of prescription eyeglasses in the amount of \$574.95 (together with a \$49 eye exam).

Plaintiff submitted exhibits relating to the medical bills he incurred following the accident. These records indicate that Plaintiff incurred \$18,375 in expenses for treatment received at Augusta Orthopedic. He also incurred medical expenses totaling \$82,373.63 at Doctors Hospital. The emergency medical care and diagnostic tests at MCG cost \$12,711.55. Physicians Practice Group in Augusta also billed Plaintiff for emergency medical services and diagnostic tests totaling \$1,848. Plaintiff was charged \$672.50 by Aiken County EMS for emergency medical transport from the scene of the accident in Edgefield County to MCG in Augusta.

² Plaintiff's spreadsheet indicates that he paid Larry Johns a total of \$4,465 after interest.

Edgefield County Sheriff's Deputy James Florida was one of the responding officers to the accident scene on November 30, 2009. He testified that Godwin was the owner of the vehicle Carroll was driving. His investigation revealed that Defendant Carroll purposely struck Plaintiff's vehicle causing the accident. The collision forced Plaintiff's vehicle off the road and caused it to roll over.

Helen Diamond testified she was at work when she received a call from MCG that Plaintiff was in the emergency room following a motor vehicle accident. Diamond went to the hospital immediately and discovered Plaintiff was on a stretcher and wearing a neck brace. She stayed with Plaintiff for approximately two to three days while he recovered in the hospital. Upon Plaintiff's release from the hospital, Diamond accompanied him to his home. Plaintiff continued to complain of severe neck pain and noted that his pain medication was ineffective. Plaintiff underwent surgery on his neck for fractured vertebrae and spent another three days recovering in the hospital. Diamond then accompanied Plaintiff to his home and provided care for him over a period of approximately one month. Plaintiff was unable to work while recovering from his injuries, and continued to suffer pain from the accident. Diamond had to take time off from work in order to care for Plaintiff and was unable to pay her bills as a result. Plaintiff paid her for the time she spent caring for him so that she would be able to pay her bills.

DISCUSSION

Defendants failed to answer the complaint; therefore, the allegations within the complaint are deemed to be admitted. *See State ex rel Medlock v. Love Shop, Ltd.*, 286 S.C. 486, 488, 334 S.E.2d 528, 520 (Ct. App. 1985) ("entry of an order of default is an admission by the defaulting party of the well-pleaded allegations of the complaint"). In all cases concerning the award of damages, it is incumbent upon the fact-finder to make its determination of the amount based upon the preponderance of the evidence presented. *Howard v. Holiday Inns, Inc.*, 271 S.C. 238, 241, 246 S.E.2d 880, 882 (1978). A plaintiff in a personal injury action is entitled to recover the reasonable value of medical services that are necessitated by the tortfeasor's wrongdoing. *See, e.g., Haseldon v. Davis*, 353 S.C. 481, 484, 579 S.E.2d 293, 295 (2003). Where the actions of a tortfeasor cause a plaintiff injuries, the plaintiff is entitled to compensation for the pain and suffering he endures from those injuries. *See, e.g., Boan v. Blackwell*, 343 S.C. 498, 501-502, 541 S.E.2d 242, 244-245 (2001). Additionally, a plaintiff is entitled to recover certain costs associated with prosecuting the case. Rule 54, SCRCP; *see also* S.C. Code Ann. §§ 15-37-10 to 15-37-220.

The testimony of the witnesses during the hearing established that Defendant Godwin gave Defendant Carroll permission to drive his vehicle, which Carroll then used to strike Plaintiff's vehicle. The collision forced Plaintiff's vehicle off of the road, causing it to rollover. Plaintiff sustained major injuries in the accident and experienced severe pain that left him incapacitated for several weeks following the accident. Plaintiff accrued \$115,980.68 in medical expenses as a result of the collision. Plaintiff also incurred expenses to prosecute this case. The exhibits demonstrate that he spent \$437.95 on court costs, including: \$150 filing fee for the complaint; \$38.65 costs associated with attempted service on the defendants by the sheriff's departments for Aiken and Edgefield counties; \$130 private process server fees; \$75 motion filing fees; \$14.30 certified mailings; \$10 subpoena fee for Officer Florida; and \$20 for certified medical records from Augusta Orthopedic.

Plaintiff seeks recovery for loans he received to pay living expenses for himself and Helen Diamond while she took care of him. A plaintiff is entitled to recover damages for the income he loses as a result of injuries caused by a defendant's negligence. *Oliver v. Blakeney*, 244 S.C. 565, 134 S.E.2d 772 (1964); *see also Bates v. Merritt Seafood, Inc.*, 663 F. Supp. 915 (D.S.C. 1987). Neither Plaintiff nor Diamond were able to work during the time Plaintiff was recovering in his home. Plaintiff did not provide any evidence of the amount of wages he lost during the time that he was out of work. Therefore, there can be no award for lost wages as an element of actual damages in this case. *See Clark v. Cantrell*, 339 S.C. 369, 529 S.E.2d 528 (2000)(evidence of actual damages must be proven by a plaintiff by the preponderance of the evidence). However, South Carolina law permits a plaintiff to recover out-of-pocket expenses stemming from a defendant's negligent act. *E.g., Bussey v. Charleston & Western Carolina Railway Co.*, 52 S.C. 438, 30 S.E. 477 (1898). Plaintiff borrowed \$13,400 from various sources and repaid a total of \$14,865 including interest. Plaintiff's Exhibit 6. Plaintiff paid Diamond \$10,750 for her services to cover her bills and living expenses. *Id.* The exhibits and testimony established that as a result of his injuries, Plaintiff accrued out of pocket expenses totaling \$25,615 while he was unable to work.

Actual damages enable a plaintiff to recover for injury to personal property as a result of a defendant's wrongful act. *See 22 Am. Jur. Damages § 24* (2019)(citing *Brooks v. City of Huntington*, 768 S.E.2d 97 (W.Va. 2014)). When personal items are destroyed as a result of a defendant's negligence, the plaintiff is entitled to either the cost of repair or replacement of those

items. *See* 22 Am. Jur. Damages §§ 290, 298 (2019). Plaintiff listed several personal items that were destroyed in the collision (a cellphone, a Bluetooth device, and a pair of prescription eyeglasses), necessitating their replacement. Plaintiff provided receipts for replacement of the eyeglasses in an amount of \$574.95 and a corresponding eye exam in the amount of \$49. Plaintiff's Exhibit 6. Although Plaintiff did not provided receipts or other evidence of the objective value of the cellphone or Bluetooth device, he is entitled to provide his own estimate of their respective values. *See Nelson v. Coleman Co.*, 249 S.C. 652, 659, 155 S.E.2d 917, 921 (1967). The estimated value at the time of the collision listed by Plaintiff for the cellphone was \$223.14 and the Bluetooth device was \$42.79. Plaintiff's Exhibit 6.

In addition to actual damages, Plaintiff also seeks punitive damages based upon Defendant Carroll's actions in causing the collision. Where a plaintiff proves by clear and convincing evidence that a defendant's actions were willful, wanton, or in reckless disregard of plaintiff's rights, the issue of punitive damages may properly be considered. *See, e.g., Welch v. Epstein*, 342 S.C. 279, 301, 536 S.E.2d 408, 419 (Ct. App. 2000). "[P]unitive damages are allowed in the interest of society in the nature of punishment and as a warning and example to deter the wrongdoer and others from committing like offenses in the future." *Laird v. Nationwide Insurance Co.*, 243 S.C. 388, 396, 134 S.E.2d 206, 210 (1964). In evaluating whether punitive damages are appropriate for consideration in a given case, courts have been directed to examine whether the harm caused by the defendant was physical as opposed to economic; whether the conduct displayed an indifference to or reckless disregard for the safety of others; whether the conduct involved repeated actions; and whether the harm was a result of intentional malice or a mere accident. *Duncan*, 385 S.C. at 143, 682 S.E.2d at 889 (citing *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408, 419 (2003)).

Testimony revealed that Defendant Carroll intentionally struck Plaintiff's truck in the rear multiple times on the highway, causing the rollover accident. Defendant Carroll, through his reckless disregard for Plaintiff's safety on the road, was at fault in causing the accident and injuries. His conduct was egregious and ongoing. Defendant Carroll's conduct created potentially deadly consequences for the drivers and bystanders and damaged property located along public roads.

In *Gamble v. Stevenson*, the Supreme Court set forth an eight factor test for assessing punitive damage awards:

[T]o ensure that a punitive damage award is proper, the trial court [. . .] may consider the following: (1) defendant's degree of culpability; (2) duration of the conduct; (3) defendant's awareness or concealment; (4) the existence of similar past conduct; (5) likelihood the award will deter the defendant or others from like conduct; (6) whether the award is reasonably related to the harm likely to result from such conduct; (7) defendant's ability to pay; and finally, (8) [. . .] "other factors" deemed appropriate.

305 S.C. 104, 111-112, 406 S.E.2d 350, 354 (1991). Under *Gamble*, the Court need not make findings of fact as to each factor of the eight-part test. See *McGee v. Bruce Hospital System*, 321 S.C. 340, 346, 486 S.E.2d 633, 637 (1996). The award of punitive damages is constrained by the maxim that no award should be "grossly disproportionate to the severity of the offense." *Gamble*, 305 S.C. at 112, 406 S.E.2d at 354. Accordingly, under *Gamble*, this Court finds that a punitive damages award in the amount of \$25,000 is appropriate under the circumstances.

Based upon the testimony and exhibits, Plaintiff has sustained the following actual damages:

- (1) medical expenses, including the eye exam, in the amount of \$116,029.68;
- (2) money paid to Helen Diamond in the amount of \$10,750;
- (3) personal loans with interest in the amount of \$14,865;
- (4) miscellaneous personal property in the amount of \$840.88;
- (5) pain and suffering in the amount of \$15,000; and
- (6) court costs in the amount of \$437.95.

Plaintiff is also entitled to punitive damages of \$25,000.

ORDER

Based upon the foregoing, **IT IS ORDERED**, that Plaintiff is granted judgment against Defendants in the total amount of \$182,923.51.

AND IT IS SO ORDERED.