

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

ALAN R. STEIL,

Plaintiff,

vs.

JILL BONSALL, and DAN DEERY MOTOR CO.
OF WATERLOO, INC. d/b/a DAN DEERY
TOYOTA

Defendants.

No. LACV 079537

JURY INSTRUCTIONS

FILED
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CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

Kim M. Heiner
District Court Judge

8-16-19
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INSTRUCTION NO. 1

Members of the Jury:

This case arises out of an automobile accident that occurred on December 21, 2015 on the southbound off-ramp to Interstate 380 at the Penn Street Exit in North Liberty, Iowa. The plaintiff claims and the defendants do not dispute that Jill Bonsall's foot slipped off the brake pedal on the car she was driving which resulted in it hitting a vehicle owned and occupied by the plaintiff, Alan Steil. The plaintiff, Alan Steil claims that he sustained damages as a result of this accident.

Defendants, Jill Bonsall and Dan Deery Motor Co. of Waterloo, Inc. do not dispute that Jill Bonsall was negligent and that the accident came about because of that negligence. However, the defendants deny and dispute the claim by Alan Steil that his claimed physical problems were caused by the accident, and they otherwise dispute the nature and extent of the injuries claimed by Alan Steil in this case.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I will now give you.

INSTRUCTION NO. 2

My duty is to tell you what the law is. Your duty is to accept and apply this law.

You must consider all of the instructions together because no one instruction includes all of the applicable law.

The order in which I give these instructions is not important.

Your duty is to decide all fact questions.

Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions.

INSTRUCTION NO. 3

Whenever a party must prove something they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other or on the greater variety and number of facts presented by one side or the other.

INSTRUCTION NO. 4

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Stipulations which are agreements between the attorneys.
4. Any other matter admitted into evidence (such as answers to interrogatories, matters of which judicial notice was taken, and etc.).

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide.

Sometimes, during a trial, references are made to pretrial statements and reports, depositions of witnesses, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Testimony I told you to disregard.
4. Anything you saw or heard about this case outside this courtroom.

INSTRUCTION NO. 5

Certain testimony has been received into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing or by videotape. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 6

During this trial, you have heard the word “interrogatory.” An interrogatory is a written question asked by one party or another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

INSTRUCTION NO. 7

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witness's testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe,
2. The witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and,
3. The witness's interest in the trial, their motive, candor, bias and prejudice.

INSTRUCTION NO. 8

An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.

INSTRUCTION NO. 9

You have heard testimony from persons described as experts. Persons who have become experts in a field because of their education and experience may give their opinion on matters in that field and the reasons for their opinion.

Consider expert testimony just like any other testimony. You may accept it or reject it. You may give it as much weight as you think it deserves, considering the witness's education and experience, the reasons given for the opinion, and all the other evidence in the case.

INSTRUCTION NO. 10

You have heard evidence claiming Alan Steil made statements before this trial while under oath and while not under oath.

If you find such a statement was made, you may regard the statement as evidence in this case the same as if Alan Steil had made it under oath during the trial.

If you find such a statement was made and was inconsistent with Alan Steil's testimony during the trial you may also use the statement as a basis for disregarding all or any part of Alan Steil's testimony during the trial; but you are not required to do so. You should not disregard Alan Steil's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

INSTRUCTION NO. 11

The fact that a plaintiff or defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 12

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct.

INSTRUCTION NO. 13

The plaintiff claims, and the defendants admit, that Jill Bonsall was at fault in allowing her vehicle to come in contact with plaintiff's vehicle.

The plaintiff must prove all of the following propositions:

1. That the fault of Jill Bonsall was a cause of damages to the plaintiff.
2. The amount of damage.

If the plaintiff has failed to prove any of these propositions, then they are not entitled to damages. If the plaintiff has proved all of these propositions, then the plaintiff is entitled to damages in some amount.

INSTRUCTION NO.14

If you find Alan Steil is entitled to recover damages, you shall consider the following items:

1. Loss of function of the body and mind from the date of injury to the present time. Loss of body and mind is the inability of a particular part of the body or mind to function in a normal manner.
2. The present value of future loss of function of the body and mind.
3. Physical and mental pain and suffering from the date of the injury to the present time. Physical pain and suffering may include, but is not limited to, bodily suffering or discomfort. Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.
4. The present value of future physical and mental pain and suffering.

The amount you assess for loss of function of body and mind, and physical and mental pain and suffering cannot be measured by any exact or mathematical standard. You must use your sound judgment based upon an impartial consideration of the evidence. Your judgment must not be exercised arbitrarily, or out of sympathy or prejudice, for or against the parties. The amount you assess for any item of damage must not exceed the amount caused by a party as proved by the evidence.

A party cannot recover duplicate damages. Do not allow amounts awarded under one item of damage to be included in any amount awarded under another item of damage.

The amounts, if any, you find for each of the above items will be used to answer the special verdicts.

INSTRUCTION NO. 15

In arriving at an item of damage or any percentage of fault, you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage or a percentage of fault and agreeing in advance that the average of those estimates shall be your item of damage or percentage of fault.

INSTRUCTION NO. 16

Future damages must be reduced to present value. "Present value" is a sum of money paid now in advance which, together with interest earned at a reasonable rate of return, will compensate the plaintiff for future losses.

INSTRUCTION 17

In all cases where damage is done by any motor vehicle by reason of negligence of the driver, and driven with the consent of the owner, the owner of the motor vehicle shall also be liable for such damage.

INSTRUCTION 18

If you find Alan R. Steil had a rotator cuff injury before this incident and this condition was aggravated or made active by this incident causing further suffering or disability then he is entitled to recover damages caused by the aggravation. He is not entitled to recover for any physical ailment or disability which existed before this incident or for any injuries or damages which he now has which were not caused by the defendant's actions.

INSTRUCTION NO. 19

A Standard Mortality Table indicates the normal life expectancy of men who are the same age as Alan Steil is 21.45 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence about the person's prior health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 20

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room, and they will be destroyed.

INSTRUCTION NO. 21

Upon retiring you shall select a foreperson. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but judges—judges of the facts. Your sole interest is to find the truth and do justice.

INSTRUCTION NO. 22

I am giving you one verdict form. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree to the answers to the questions, the verdict will be signed by the person you selected to serve as foreperson.

After deliberating for six (6) hours from 1145 o'clock 9.m., excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the verdict. In that case the verdict must be signed by all seven jurors who agree.

When you have agreed upon the verdict and appropriately signed it, tell the Court Attendant.

INSTRUCTION NO. 23

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, Snapchat, LinkedIn, YouTube, Twitter, email, etc.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge. This includes using the Internet to research events or people referenced in the trial.

This case will be tried on evidence presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules. [Failure to follow these instructions may result in the case having to be retried and could result in you being held in contempt and punished.]

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