

IN THE IOWA DISTRICT COURT FOR JASPER COUNTY

SAVANNAH COOK,

Plaintiff,

v.

TRAVIS HERDUIN,

Defendant.

LAW NO.: LACV 122776

FILED

FEB 23 2024

TIME 3:15 PM
JASPER COUNTY CLERK OF COURT

JURY INSTRUCTIONS

MEMBERS OF THE JURY:

This case arises from a motor vehicle accident on October 8, 2020, at the intersection of E. 12th Street and N. 4th Avenue E in Newton, Jasper County. At the time of the accident, a car driven by Travis Herduin failed to yield at a stop sign, causing Plaintiff Savannah Cook to collide with Defendant's vehicle. Defendant has admitted he was at fault in causing the accident.

Plaintiff has alleged she sustained injuries as a result of the October 8, 2020 motor vehicle accident. The Defendant admits that he caused the collision but disputes he caused Plaintiff's injuries. In the alternative, if he did cause the injuries, he disputes the amount of damages that should be awarded to the Plaintiff.

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

JURY INSTRUCTION NO. 1

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.

JURY INSTRUCTION NO. 2

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 (e.g., answers to interrogatories, matters in which judicial notice was taken, 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 pre-trial statements and reports, witnesses' depositions, 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. Any testimony I told you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

JURY 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.

JURY INSTRUCTION NO. 4

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 witnesses' testimony.

There are more 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' appearance, conduct, age intelligence, memory and knowledge of the facts; and
3. The witness' interest in the trial, their motive, candor, bias and prejudice.

JURY INSTRUCTION NO. 5

You have heard evidence that one or more witnesses made statements before this trial while under oath.

If you find such statements were made, you may regard the statements as evidence in this case the same as if the witness or witnesses had made them under oath during the trial.

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

JURY INSTRUCTION NO. 6

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' education and experience, the reasons given for the opinion, and all the other evidence in the case.

JURY INSTRUCTION NO. 7

The Plaintiff claims that Defendant, Travis Herduin, was at fault for the October 8, 2020 motor vehicle accident due to Defendant's negligence in the operation of his motor vehicle. The Defendant admits that he was at fault for the accident. The Plaintiff must prove both of the following propositions:

1. The defendant's fault was a cause of the plaintiff's damage.
2. The amount of damage.

If the Plaintiff has failed to prove either of these propositions, the Plaintiff is not entitled to damages. If the Plaintiff has proved both of these propositions, the Plaintiff is entitled to damages in some amount.

JURY INSTRUCTION NO. 8

To award damages, you must find they were caused by the collision. A collision is a cause of damage when the damage would not have happened except for the collision.

JURY INSTRUCTION NO. 9

If you find the Plaintiff was injured or affected by another act or medical condition after this incident, she cannot recover for any later injury, medical condition, or aggravation not caused by this incident.

JURY INSTRUCTION NO. 10

If you find Plaintiff is entitled to recover damages, it is your duty to determine the amount. In doing so you shall consider the following items in determining an amount which will fully compensate the Plaintiff for the damages incurred:

1. Past loss of function of the mind and body.
2. Future loss of function of the mind and body.
3. Past physical and mental pain and suffering.
4. Future physical and mental pain and suffering.
5. Past loss of earnings.
6. Loss of future earning capacity.

The amount, if any, you assess for physical and mental pain and suffering and/or loss of function of the mind and body 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.

JURY INSTRUCTION NO. 11

“Loss Of Full Mind And Body – Past” is the loss of function of the mind and body from the date of injury to the present time. Loss of mind and body is the inability of a particular part of the mind or body to function in a normal manner.

JURY INSTRUCTION NO. 12

“Loss Of Full Mind And Body – Future” is the present value of future loss of function of the mind and body.

JURY INSTRUCTION NO. 13

“Physical And Mental Pain And Suffering – Past” is physical and mental pain and suffering from the date of 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.

JURY INSTRUCTION NO. 14

“Physical And Mental Pain And Suffering – Future” is the present value of future physical and mental pain and suffering.

JURY INSTRUCTION NO. 15

Loss of Earnings. The reasonable value of lost wages from the date of injury to the present time.

JURY INSTRUCTION NO. 16

Loss of Future Earning Capacity. The present value of loss of future earning capacity. Loss of future earning capacity is the reduction in the ability to work and earn money generally, rather than in a particular job.

JURY INSTRUCTION NO. 17

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.

JURY INSTRUCTION NO. 18

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

JURY INSTRUCTION NO. 19

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Savannah Cook is 79 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Savannah Cook's health, habits, occupation, and lifestyle, when deciding issues of future damages.

JURY INSTRUCTION NO. 20

If you find the Plaintiff had medical conditions before this incident and such medical conditions were aggravated by this incident causing further suffering and/or disability then they are entitled to recover damages caused by the aggravation. The Plaintiff is not entitled to recover for any physical ailment or disability which existed before this incident or for any damages which they now have which were not caused by the Defendant's actions.

JURY INSTRUCTION NO. 21

If you find the Plaintiff had medical conditions before this incident making her more susceptible to injury than a person in normal health, then the Defendant is responsible for all injuries and damages which are experienced by the Plaintiff that are caused by the Defendant's actions, even though the injuries claimed produce a greater injury than those which might have been experienced by a normal person under the same circumstances.

JURY INSTRUCTION NO. 22

Upon retiring you shall select a foreperson. It will be his or her duty to see discussion is carried on in an orderly fashion, that the issues are fully and freely discussed, and that 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 are judges – judges of the facts. Your sole interest is to find the truth and do justice.

JURY 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, MySpace, 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.

JURY INSTRUCTION NO. 24

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.

JURY INSTRUCTION NO. 25

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering this case with the attorneys. I have tried to use language that is generally understandable. Usually, questions about instructions can be answered by carefully rereading them. If, however, any of you feel it is necessary to ask a question, you must do so in writing, signed by your foreperson, and deliver the question to the judicial assistant.

I cannot communicate with you without first discussing your questions and potential answers with the parties and attorneys. This process naturally takes time and deliberation before I can respond. When I respond, it will be in writing, and the foreperson must read the response to the jury. Keep the written questions and response and return it to open court with the Verdict.

The judicial assistant who has been working with me on this case is in the same position as I am. She has taken an oath not to communicate with you except to ask if you have reached a verdict. Please do not ask her to violate that oath by asking her questions about the case.

JURY INSTRUCTION NO. 26

I am giving you one (1) verdict form to answer. If you 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 hours, 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 are in agreement.

When you have agreed upon the verdict and appropriately signed it, tell the court attendant.

Dated this 23rd day of February, 2024.

Stacy Ritchie, Judge