

IN THE IOWA DISTRICT COURT FOR MARSHALL COUNTY

TAMMY LOSING,

Plaintiff,

v.

ALL IN TRUCKING, LLC,

Defendant.

LACI011325

JURY INSTRUCTIONS**INSTRUCTION NO. 1**

This case arises out of a motor vehicle collision on January 14, 2020. On this date, Plaintiff, Tammy Losing, was operating her Kia, minivan eastbound on Hwy 30 in Marshalltown, Iowa. Kevin Scoggins, an employee and driver for All in Trucking, LLC was operating a Freightliner semitruck and was traveling eastbound on Hwy 30 when he contacted the rear of Tammy Losing's minivan.

Tammy Losing filed a lawsuit against All in Trucking, LLC as Kevin Scoggins' employer. Tammy alleges that Kevin Scoggins as the employee of All in Trucking was negligent and is liable for personal injury and damages stemming from the accident. All in Trucking, LLC, admits Kevin Scoggins' negligence was the cause of the accident, but denies that the accident is the legal cause of the damages Plaintiff is claiming.

Tammy Losing claims the accident caused damages and injury. All in Trucking, LLC, disputes the accident caused the injuries and damages that Tammy Losing claims.

FILED
2023 MAR -3 P 12:35
CLERK OF DISTRICT COURT
MARSHALL CO. IOWA

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.

As you consider the evidence, do not be influenced by any personal sympathy, bias, prejudices or emotions. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice.

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.

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 (e.g. answers to interrogatories, matters 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 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.

INSTRUCTION NO. 5

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

INSTRUCTION NO. 6

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

INSTRUCTION NO. 7

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.

INSTRUCTION NO. 8

An employer is liable for the negligent acts of an employee if the acts are done in the scope of employment.

INSTRUCTION NO. 9

The defendant has admitted fault in this case. To recover damages, the plaintiff must prove the following propositions:

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

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

INSTRUCTION NO. 10

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

INSTRUCTION NO. 11

If you find Tammy Losing is entitled to recover damages, you shall consider the following items:

1. Past Medical Expenses: The reasonable cost of necessary hospital charges, doctor charges, prescriptions, other medical services, from the date of injury to the present time. In determining the reasonable cost of necessary hospital charges, doctor charges, prescriptions, other medical services, you may consider the amount charged, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expense.
2. Future Medical Expenses: The present value of reasonable and necessary medical expenses which will be incurred in the future.
3. Loss of Full Mind and Body – Past: Loss of function of the body from the date of injury to the present time. Loss of body is the inability of a particular part of the body to function in a normal manner.
4. Loss of Full Mind and Body – Future: The present value of future loss of function of the body.
5. Physical and Mental Pain and Suffering – Past: 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.
6. Physical and Mental Pain and Suffering – Future: The present value of future physical and mental pain and suffering.

The amount you assess for physical and mental pain and suffering in the past and future, loss of function of the body in the past and future, 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.

INSTRUCTION NO. 12

If you find Plaintiff had a health condition before this incident and any such condition was aggravated by this incident causing further suffering, then Plaintiff is entitled to recover damages caused by the aggravation. Plaintiff is not entitled to recover for any physical ailment or disability which existed before this incident or for any injuries or damages which she now has which were not caused by Defendant's actions.

INSTRUCTION NO. 13

If Tammy Losing had degenerative disc disease, and if this disease made 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 Tammy Losing that are caused by 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.

INSTRUCTION NO. 14

If you find Plaintiff was injured by another act after this incident, she cannot recover for any such later injuries, or for any aggravations of injuries not caused by this incident.

INSTRUCTION NO. 15

Evidence is clear, convincing and satisfactory if there is no serious or substantial uncertainty about the conclusion to be drawn from it.

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 economic losses.

INSTRUCTION NO. 17

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Tammy Losing is 42 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Tammy Losing's health, habits, occupation, and lifestyle, when deciding issues of future damages.

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.

INSTRUCTION NO. 19

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. 20

Occasionally jurors have questions during deliberations. I tried to use language in these instructions which is generally understandable. Usually questions about the instructions can be answered by carefully re-reading them. If, however, you deem it necessary to ask the Court a question about the instructions, please do so in writing. After I have received any questions from you, I am required to confer with the attorneys before responding. That process, of course, takes time. My response to any question will be in writing. Please do not ask the court attendant any questions about the instructions or otherwise discuss any aspects of this case with her.

INSTRUCTION NO. 21

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.

It is important that we have your full and undivided attention during this trial.

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, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

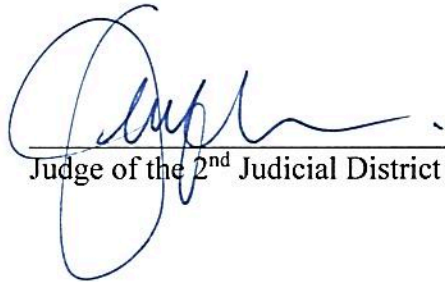
Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown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

INSTRUCTION NO. 23

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, the verdict must be signed by your foreperson.

After deliberating for six hours from 5:01 o'clock P.m. excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the answers to the questions. 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.



Judge of the 2nd Judicial District of Iowa

IN THE DISTRICT COURT OF IOWA IN AND FOR MARSHALL COUNTY

TAMMY LOSING,

Plaintiff,

v.

ALL IN TRUCKING, LLC,

Defendants.

LACI011325

VERDICT FORM

We find the following verdict on the questions submitted to us:

Question No. 1: Was the fault of the Defendant a cause of damages to Plaintiff?

(If your answer is "no", then stop.)

(If your answer is "yes", then proceed to answer the following questions:

- | | | |
|----|------------------------------|---------------------|
| 1. | Past medical expenses | \$ <u>47,959.46</u> |
| 2. | Loss of function – past | \$ <u>15,000.00</u> |
| 3. | Past pain and suffering-past | \$ <u>15,000.00</u> |
| 4. | Loss of function- future | \$ <u>0.</u> |
| 5. | Pain and suffering- future | \$ <u>0.</u> |
| 6. | Future medical expenses | \$ <u>0.</u> |


FOREPERSON*

*To be signed only if verdict is unanimous.

FILED
2023 MAR -3 P 12:35
CLERK OF DISTRICT COURT
MARSHALL CO. IOWA

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

**To be signed by the jurors agreeing thereto after
six hours or more of deliberation.