

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-3683
Summary Calendar

JAMES D. COLLIER, ET AL.,

Plaintiffs,

PHILLIP COLLIER,

Plaintiff-Appellant,

versus

GAYLORD CONTAINER CORPORATION,
TRANSPORTATION INSURANCE COMPANY,
and JAMES C. McCULLOUGH,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
CA 91 1490 E

May 7, 1993

Before GARWOOD, JONES, and EMILIO M. GARZA, Circuit Judges.

EDITH H. JONES, Circuit Judge:*

Appellant Phillip Collier was awarded over \$190,000 by a jury for injuries he suffered in a rear-end collision perpetrated by Gaylord's employee. Collier appeals, asserting only that the

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

district court abused its discretion in denying a new trial on one element of the damage award, the \$50,000 sum allocated by the jury to his general damages. We reject his contention and affirm.

The theme of Collier's brief is that in other Louisiana cases involving injuries followed by spinal surgery, \$100,000 is the least amount of general damages that have recently been awarded. Of course, if there were a fixed minimum for awards of general damages, it would be appropriate to so instruct the jury before they enter deliberations. Collier surely realizes, however, that this issue is committed to the jury because reasonable minds can differ on the appropriate level of general damages in an individual case. Gaylord contends that the particular causes of Collier's cervical and lumbar spinal problems were hotly contested, as was his residual disability following two successful surgeries. This contest created fact issues for the jury to resolve.

As this court has stated before, we are exceedingly hesitant to alter the trial court's decision on a motion for new trial because of our relative remoteness from the testimony and events that led to the jury verdict. We review on the restrictive abuse of discretion standard, and we do not grant relief unless the evidence "furnishes no sound basis for relief." Jones v. Wal-Mart Stores, Inc., 870 F.2d 982, 986-87 (5th Cir. 1989). This is especially true where, as here, only one aspect of the monetary award is challenged, for a jury would often be expected to consider specific items of damages in light of their ultimate sum.

As the overall verdict was reasonable, and for the other reasons stated, the judgment of the district court is AFFIRMED.