

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 22nd day of August, 2008.*

Linda Goodman Wright, Appellant,

against Record No. 072082  
Circuit Court No. CL05-350

Amanda Lynn Meadows, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of the City of Suffolk.

Upon consideration of the record, briefs, and argument of counsel, the Court is of the opinion that there is no reversible error in the judgment of the circuit court.

On November 30, 2005, Amanda Lynn Meadows ("Meadows") filed a motion for judgment against Linda Goodman Wright ("Wright") seeking \$150,000 for injuries she allegedly sustained in an automobile accident caused by Wright's negligence. On May 11, 2006, the jury rendered a verdict in favor of Meadows in the amount of \$500 in damages. The circuit court granted Meadows' motion to set aside the jury verdict and granted her a new trial on the issue of damages. Following a second jury trial on May 18, 2007, the jury awarded Meadows damages amounting to \$20,000. Wright appealed to this Court, claiming the circuit court erred in setting aside the

jury verdict of May 11, 2006,<sup>1</sup> granting Meadows a new trial, and refusing to enter judgment on the jury's verdict of May 11, 2006.

Meadows and Wright were the drivers of separate cars that collided on June 2, 2003. Later that day, Meadows' back and knee were examined at Obici Hospital. She was advised to take one day off from work.

Four days later, Meadows sought treatment at Chesapeake General Hospital. During such treatment, she did not report any low back pain and her report indicated a good range of motion. Additionally, x-rays of her neck and knee were normal.

On June 23, 2003, she sought the treatment of Dr. Arthur Wardell, a board certified orthopedic surgeon. Dr. Wardell diagnosed Meadows with a neck sprain, back sprain, right shoulder sprain, and a right knee contusion. As Meadows' expert witness, Dr. Wardell opined that, within a reasonable degree of medical probability, such injuries were the result of the automobile accident on June 2, 2003. Dr. Wardell further opined that her injuries were permanent and would require treatment into the

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<sup>1</sup> Wright's assignment of error mistakenly states that the jury verdict was rendered on May 18, 2006.

foreseeable future. Meadows' past medical expenses totaled \$13,896.53 and her lost wages totaled \$2,960.00.

Although Meadows' complaints were subjective, Wright's expert witness, Dr. John Williamson, testified that, to a reasonable degree of medical probability, Meadows suffered a contusion to her knee and mild strains to her neck and her low back. Dr. Williamson agreed that such injuries were the result of the accident. Although he disagreed with Dr. Wardell's opinion regarding the need for future treatment, Dr. Williamson conceded that, given her injuries, it was reasonable for Meadows to seek treatment at the emergency room and by an orthopedist, to receive x-rays, and to attend ten physical therapy sessions.

The bills for Meadows' medical expenses were admitted into evidence. Her visit to the emergency room totaled \$100.94, and Dr. Wardell's treatment totaled \$2,692.00. X-rays were taken during her treatment at Chesapeake General Hospital, which totaled \$375.03, and Meadows' first ten physical therapy sessions totaled \$2,830.42.

On appeal, Wright argues that the experts' opinions were based on the subjective complaints of Meadows; if the jury disbelieved the severity of Meadows' complaints, then such a finding would undermine any expert opinion based upon such subjective complaints. Therefore, Wright argues, this Court should reinstate the first jury verdict because the jury was entitled to find that Meadows' injuries amounted only to \$500.

Meadows responds that the circuit court did not err in ruling that the first verdict in the amount of \$500 was inadequate as a matter of law, because Wright's expert witness conceded that Meadows suffered strains to her back and neck as a result of the automobile accident and that she properly incurred medical expenses in excess of \$500. Meadows argues that evidence of her damages was uncontroverted, and a jury could not disregard such evidence. We agree with Meadows.

It is within the jury's discretion to determine the amount of the verdict. *Richardson v. Braxton-Bailey*, 257 Va. 61, 63, 510 S.E.2d 732, 732-33 (1999). All reasonable inferences must be granted in favor of the verdict when reviewing the adequacy of the award. *Id.* at 63, 510 S.E.2d at 733.

Where the evidence is controverted, or is doubtful as to nature and extent, the circuit court should not disturb the jury verdict on the ground of inadequacy. See *Bradner v. Mitchell*, 234 Va. 483, 487-88, 362 S.E.2d 718, 720-21 (1987). In such a case, the jury is entitled to find that the plaintiff's claimed injuries are exaggerated and award only the damages reasonably related to the defendant's conduct. See *id.*

Conversely, when the amount of the jury verdict is manifestly at variance with the facts in the case, the courts must exercise control in the interest of fairness and justice. *Glass v. David Pender Grocery Co.*, 174 Va. 196, 201-02, 5 S.E.2d 478, 480-81 (1939). Although the trier of fact is charged with determining the

weight of the testimony and the credibility of witnesses, it may not arbitrarily disregard uncontradicted evidence of unimpeached witnesses when such evidence is consistent with the facts in the record and is not inherently incredible. Commonwealth v. Jackson, 276 Va. \_\_, \_\_, 661 S.E.2d 810, 816 (2008); Cheatham v. Gregory, 227 Va. 1, 4, 313 S.E.2d 368, 370 (1984); Hodge v. American Family Life Assur. Co., 213 Va. 30, 31, 189 S.E.2d 351, 353 (1972). Where evidence of damages is uncontroverted and so complete that no rational fact-finder could disregard it, it must be considered as a fixed, constituent part of the jury verdict. Bradner, 234 Va. at 487, 362 S.E.2d at 720.

Wright's own expert witness opined within a reasonable degree of medical probability that Meadows suffered a contusion to her knee and a strained neck and back as a result of the automobile accident. Wright's expert witness further conceded that x-rays, ten physical therapy sessions, and treatment at the emergency room and by Dr. Wardell were reasonably necessary for Meadows' undisputed injuries. The total amount of these uncontroverted medical expenses exceeded the jury award of \$500.

Because the jury disregarded the uncontroverted evidence concerning damages, the circuit court properly found the jury's verdict to be inadequate as a matter of law. The circuit court did not err in setting aside the jury verdict of May 11, 2006 and granting Meadows a new trial on the issue of damages.

Accordingly, for the above reasons, we affirm the judgment of the circuit court. The appellant shall pay to the appellee damages according to law.

This order shall be certified to the said circuit court.

A Copy,

Teste:

*original order signed by the  
clerk of the Supreme Court of  
Virginia at the direction of the  
Court*