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2000 Survey of Rhode Island Law: Cases: Products Liability

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Products Liability. *Dilone v. Anchor Glass Container Corp.*, 755 A.2d 818 (R.I. 2000). In a products liability case regarding the unreasonably dangerous and defective condition of a glass bottle of Veryfine juice, the Rhode Island Supreme Court upheld the trial justice's decision to disregard the jury's verdict on this issue of damages. The court concurred with the trial justice that the original amount awarded by the jury was inadequate to compensate the plaintiff for his expected years of pain and suffering. The court also held that the trial justice properly denied the defendant's motion for judgment as a matter of law, stating that the testimony of the plaintiff's expert witness was satisfactory to establish that the glass bottle was unreasonably dangerous and that the plaintiff had established that the bottle was in a defective condition when it left Veryfine.

FACTS AND TRAVEL

On July 2, 1987, Ruben Dilone (Dilone) was severely injured when a glass bottle of Veryfine juice shattered in his hands as he attempted to open it.[1] The broken bottle caused a laceration to Dilone's right wrist, which resulted in nerve damage in Dilone's hand.[2] Dilone was left with pain and a loss of sensation in his thumb, index finger, middle finger and half of the ring finger on his right hand.[3] Dilone was unable to regain feeling in the injured portion of his hand even after undergoing extensive corrective surgery.[4] After three unsuccessful surgeries and therapy, Dilone's medical bills exceeded $24,000, but his physical impairment persisted.[5] Dilone sued the market that sold him the bottle, Veryfine and Anchor Glass Container Corp. for reimbursement of his medical bills and for pain and suffering under a theory of products liability.[6]

At trial, a jury found in favor of Dilone, but awarded him only $75,000 in damages.[7] Dilone filed a motion for a new trial, or alternatively, for an additur, claiming that the jury's award for his

1. *See* Dilone v. Anchor Glass Container Corp., 755 A.2d 818, 819 (R.I. 2000).
2. *See id.*
3. *See id.*
4. *See id.*
5. *See id.*
6. *See id.*
7. *See id.*

pain and suffering was inadequate.[8] The trial justice agreed that the award for pain and suffering was inadequate, and ordered a new trial on the issue of damages, or alternatively, an additur of $50,000.[9] The defendants appealed the judge's decision to overturn the jury award and also appealed the trial judge's denial of their motion for judgment as a matter of law.[10]

ANALYSIS AND HOLDING

The Order for a New Trial on the Issue of Damages

The court noted that:

> a damage award may be disregarded by the trial justice and a new trial granted only if the award shocks the conscience or indicates that the jury was influenced by passion or prejudice or if the award demonstrates that the jury proceeded from a clearly erroneous basis in assessing the fair amount of compensation to which a party is entitled.[11]

The court also noted that the standard of review on a motion for a new trial requires an evaluation of the weight of the evidence before the judge and the credibility of the witnesses who have testified.[12] In other words, the trial justice reviews the motion "from the prospective of a seventh juror."[13]

Here, the court found that the trial justice put forth a detailed bench decision, "stat[ing] with specificity the evidence that prompted his decision."[14] The trial justice explained in this decision that he considered the jury's verdict shocking to the conscience because Dilone had demonstrated, both through his own testimony and the expert testimony of his attending physician, that he had a continuing and permanent disability.[15] Taking into account evidence that Dilone's life expectancy after the accident was 34.2 years, the trial justice considered an award of only about $50,000 for Dilone's extended pain and suffering grossly inade-

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8. *See id.*
9. *See id.*
10. *See id.* at 820.
11. *Id.* at 820-21 (citing Shayer v. Bohan, 708 A.2d 158, 165 (R.I. 1998) (quoting Hayhurst v. LaFlamme, 441 A.2d 544, 547 (R.I. 1982)).
12. *See id.* at 821 (citing Pimental v. D'Allaire, 330 A.2d 62, 64-65 (1975)).
13. *Id.* (quoting *Hayhurst*, 441 A.2d at 547).
14. *Id.*
15. *See id.*

quate.[16] Further, the trial justice indicated in his opinion that he believed the jury either "misconceived the evidence, or the significance of the evidence" or that the jury "ignored the evidence" altogether, coming to an erroneous verdict as to the proper amount of damages for Dilone's pain and suffering.[17] The Rhode Island Supreme Court held that the trial justice's determinations were supported by the evidence, and concurred that an additur of $50,000 would provide the proper and just compensation to Dilone for his pain and suffering.[18]

The Denial of the Defendant's Motion for Judgment as a Matter of Law

Additionally, Veryfine appealed the trial justice's denial of its motion for judgment as a matter of law, asserting that Dilone never proved that the glass beverage bottle was in a defective condition when it left Veryfine, and that the plaintiff's expert witness failed to testify that the bottle was unreasonably dangerous.[19] The court upheld the trial justice's denial of the motion, explaining that the expert testimony offered by the plaintiff that the bottle was "defective" and "probably quite unsafe" was sufficient to establish by a clear preponderance that the glass bottle was unreasonably dangerous to a user.[20] The court emphasized that there are no magic words or talismanic incantations that an expert witness must recite to indicate manufacturer liability.[21] The court then concluded that, in the context of this case, the plaintiff did not have to prove that every defendant who handled the bottle through "the chain of commerce tampered with the product or contributed to the defect" to prove liability.[22] Since Veryfine did not put forth evidence that the bottle shattered for a different reason than its defective condition, the supreme court held that the trial court was correct in denying Veryfine's motions.[23]

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16. *See id.*

17. *Id.* (quoting the trial justice).

18. *See id.*

19. *See id.* at 822.

20. *Id.* (quoting the description of the Veryfine bottle by the plaintiff's expert witness, Professor Bar-on Braun Isa, in her trial testimony).

21. *See id.* (citing Galluci v. Humbyrd, 709 A.2d 1059, 1066 (R.I. 1998)).

22. *Id.*

23. *See id.*

CONCLUSION

In *Dilone v. Anchor Glass Container Corp.*, the Rhode Island Supreme Court upheld the trial judge's decision to overturn the jury verdict as to damages for pain and suffering. The court agreed with the trial justice that an additur of $50,000 would constitute adequate compensation for the plaintiff's pain and suffering. The court also upheld the trial judge's denial of Veryfine's motion for judgment as a matter of law.

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