

PREGNANT WOMAN HURT IN CRASH; BABY BORN WITH DISABILITIES

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September 16, 2020

On November 26, 2001, a collision occurred between a tractor-trailer, owned by the defendant and driven by its employee, and a 1997 Dodge Neon driven by the plaintiff who was nine months pregnant. The collision occurred at approximately 7:40 a.m. on a Monday morning on the Route 28 on-ramp leading to Route 495 North. The road surface was wet and it was cloudy with a slight mist.

The plaintiff driver was traveling on the Route 28 on-ramp at approximately 25 to 35 miles per hour before the collision. As the plaintiff driver approached the final curve of the on-ramp, she hit an oil or grease slick of unknown origin. The plaintiff driver's car began to slide as she entered the highway. At the same time, the tractor-trailer being operated by an employee of the defendant trucking company was proceeding on 495 northbound.

The plaintiffs alleged that the operator was speeding at the time of accident. A State Police officer testified at trial that the defendant driver informed him that he was traveling at approximately 65 mph in a 55 mph zone. The plaintiffs retained a nationally known accident reconstructionist who testified that the defendant driver was speeding and had sufficient time to perceive, react and avoid the collision.

As a result of the collision, the plaintiff driver sustained a placental abruption and a comminuted complex acetabular fracture. The placental abruption led to the delivery of the child via emergency Caesarean section about one hour after the collision. Due to a lack of oxygen at birth, the child suffered from hypoxia ischemia, liver and renal dysfunction, global developmental delays, seizure disorder, cerebral palsy, microcephaly and mental retardation.

During trial, the plaintiff driver called her treating pediatric neurologist from Children's Hospital to testify with regard to the severe brain damage resulting from the collision and the permanent mental retardation and physical handicaps sustained by the child.

According to the plaintiffs' expert life care planner, the present value of the life care plan was \$7,737,366. The plaintiffs' expert economist testified that the child's lost earning capacity was \$1,269,388. The total special damages alleged were \$9,202,458.

Damages were largely uncontested. Despite retaining several experts to comment on the damages, the defendants determined that it was not appropriate to call any defense experts at trial.

The critical issue was whether or not the accident was avoidable. The case turned on the cross-examination of the plaintiffs' accident reconstructionist, who testified that the defendant driver had adequate time to perceive, react and avoid the accident. The defendants were able to successfully cross-examine the plaintiffs' accident reconstructionist to establish that the driver did not have adequate time to avoid the accident.

Prior to trial, the plaintiffs' demand was \$25 million. Shortly before trial, the demand was reduced to \$15 million in response to a \$1 million offer by the defendants. The jury deliberated for approximately two hours before returning a verdict in favor of the defendants.

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