



OFFICE LOCATION

Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780 or 800-442-6546
Fax: 312-346-8781

PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

Illinois Appeals Court Holds Injured Plaintiff Was Entitled To More Damages

7/28/2010



In *Anderson v. Zamir*, No. 5-08-0542, the Appellate Court of Illinois, Fifth District, took the unusual step of reversing a jury verdict and remanding the case to the trial court for a new trial on the issue of damages.

In *Anderson*, the plaintiff was injured in a car accident with the defendant, in which the defendant's vehicle rear-ended Anderson's. Anderson's head hit the steering wheel and she later suffered from neck tenderness and pain, lower back pain and a cervical MRI revealed a tear in the labrum of her left shoulder. She underwent orthoscopic shoulder surgery to repair the tear in her labrum, which left a few small scars on her shoulder. She then required physical therapy to improve her injury and strengthen her injured shoulder.

The defendant admitted liability for the car accident and the case went to trial on the issue of damages only. The defendants conceded liability for the cervical injury, but contest liability for the shoulder injury, which they asserted was not caused by the accident. Following the trial, in which evidence of medical bills amounting to \$28,804 was introduced, the jury awarded Anderson only \$12,500, of which \$5,000 was for medical bills and \$7,500 was for pain and suffering. In other words, it appeared that the jury only awarded her damages for the cervical injury and ignored the shoulder injury.

After reviewing the evidence, the court concluded that the evidence at trial did not support the jury's decision to fail to compensate Anderson for her shoulder



OFFICE LOCATION

Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780 or 800-442-6546

Fax: 312-346-8781

PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

in jury. The court explained that the only evidence offered at trial regarding her shoulder injury was not effectively refuted by the defense:

The only medical evidence offered at the trial was presented by Tiffany's attorney in her case. The defendants' attorney merely cross-examined Tiffany's physicians and presented no independent evaluation of Tiffany's injuries, her medical care, her medical bills, or her prognosis. A review of the cross-examination of Tiffany's physicians reflects that neither physician wavered in his opinion relative to the cause of the shoulder injury... (A)ll the medical testimony introduced at the trial supported the theory that the shoulder injury was causally connected to the motor vehicle accident. No evidence contradicting this connection was introduced. The witnesses were not impeached, and they stood by their opinions of causation. Upon reviewing the testimony, we do not conclude that this medical testimony is inherently improbable.

Thus, the court reversed the jury's verdict to allow a new jury to consider the issue of damages in relation to both injuries established at trial. Unfortunately, Ms. Anderson will have to go through the ordeal of another [personal injury trial](#), but will hopefully receive justice the second time around and receive compensation for both her neck and shoulder injuries.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) handles [workers' compensation](#) and [personal injury cases](#). Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.