NEW YORK INJURY CASES BLOG
NEWS & UPDATES ON PAIN & SUFFERING VERDICTS & SETTLEMENTS
PUBLISHED BY
THE LAW FIRM OF
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New York Injury Cases Blog

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$8,000,000 Verdict for Family of Floridian Shot to Death

A 27 year old man, Starsky Garcia, was shot to death in the parking lot of a North Miami Beach parking lot two years ago. The Miami Herald reports that the shooter has never been found but the family hired The Haggard Law Firm in Coral Gables who sued the apartment owners for their negligence.

Now, a **Florida jury verdict** has held the apartment complex managers and owners were liable for inadequate security and awarded the decedent's family **$8,000,000 in wrongful death damages** -

even though the shooter was never caught like the perp was in the photo here!

Florida personal injury attorneys Paige Tropp & Ameen note that the defendants should have implemented proper safety measures to prevent this crime, especially in view of many other recent crimes at Florida apartment complexes.

Unlike in New York, **Florida law permits a jury to award survivors loss of companionship damages**. About 30 states allow damages for loss of consortium or loss of companionship in their wrongful death laws. **In New York, though, this element of damages is forbidden** and juries here are not permitted to award damages suffered by the survivors for their emotional loss. Every year since

1995, there have been failed legislative efforts in New York to get the law changed.

So how come there are still many large wrongful death verdicts and settlements in New York? That's because the permitted damages here include loss of earnings (imagine the tragic death of a young person earning six figures and multiply that out for his expected work life years and the verdict can get into the millions very quickly).

And then there's **pre-death pain and suffering**. This too can be a huge number but the claim is rife with difficulties for the heirs. First, there's the requirement that the decedent was conscious and actually suffered before he died. Second, there's the difficulty of evaluating the proper amount for this claim.

In Glaser v. County of Orange, the estate of a 50 year old man was awarded **$350,000** for pain and suffering after a car accident that resulted in his death at the scene. The jury returned a verdict in the sum of $1,000,000 an amount the appellate court found was too high because the plaintiff's medical expert testified that the decedent was conscious for no more than two to three minutes after his windshield was struck by a rear axle that came loose from the defendant's dump truck and struck the decedent's windshield and he was pronounced dead 15 minutes after the crash.

The Glaser family was faced with long-standing law in New York that to recover for pre-death pain and suffering the estate bears the burden of proving that a decedent suffered conscious pain and suffering - some level of awareness - following the accident. In the Glaser case, the appellate court was clearly swayed by testimony of witnesses on the scene that the decedent was not moving and exhibited no outward signs of pain.

The court was also influenced by its own 2007 decision in Bennett v. Henry in which it determined that it would not disturb a jury award of **$400,000** for pre-death pain and suffering of a 74 year old woman killed in a car accident. There, witnesses testified that they observed the decedent to be breathing at the scene, in pain and making sounds. She was not pronounced dead until 10 hours later at the hospital.

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