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IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

JUANA S. CRISOSTOMO)
)
 Plaintiff,)
)
 vs.)
)
 EDWARD I. SABLAN , MOYLAN’S)
 INSURANCE COMPANY, LTD., and)
 DONGBU INSURANCE COMPANY,)
 LTD.,)
)
 Defendants and Real Party in)
 Interest.)

Civil Action No. 00-0274B

DECISION FOLLOWING TRIAL

INTRODUCTION

¶1 On November 14, 1999, at approximately 6:30 p.m., Plaintiff Juana S. Crisostomo was in the process of making a left-hand turn from Highway 16 in Dan Dan when a pickup, operated by Defendant Edward I. Sablan, collided into the rear end of her vehicle. At all times material hereto, Defendant Sablan was duly insured under a public liability policy issued by Defendant Moylan’s Insurance Company, Ltd. (“Moylan’s”) as general agent for Dongbu Insurance Co., Ltd. (“Dongbu”).^{1/} At the trial of this matter, moreover, neither Defendant’s negligence nor the absence of Plaintiff’s contributory negligence was disputed. Defendants, moreover, have agreed to

^{1/} The parties stipulated that Moylan’s, as general agent for Dongbu, contracted with Defendant Sablan to indemnify him for all sums that he is legally obligated to pay as damages because of injury to, or destruction of property, caused by accident and arising out of the ownership or use of his automobile. The parties apparently also agree that Moylan’s should be dismissed from this action and that Dongbu Insurance Co., Ltd. should be substituted in its stead. See Unopposed Motion to Substitute Real Party in Interest and Motion for Partial Summary Judgment as to Insurance Company Liability, filed May 16, 2001.

1 compensate Plaintiff for the damage sustained by her vehicle. Consequently, the only issue awaiting
2 disposition by the court is the amount of economic and noneconomic damages, if any, sustained by
3 the Plaintiff for personal injuries.

4 ¶2 The matter came before the court for trial in courtroom 217A on July 9, 2001. Steven P.
5 Pixley, Esq., appeared for the Plaintiff, and Jihan Martinez, Esq. and Thomas E. Clifford, Esq.
6 appeared for the Defendant. Based on the evidence presented, the testimony of the parties, and the
7 court's review of the file in this matter, the court now makes the following findings and issues its
8 decision.

9 II. FACTS

10 ¶3 From the facts giving rise to this accident, the court finds that Defendant Sablan negligently
11 failed to maintain a proper lookout and collided into the rear of Plaintiff's stopped vehicle.
12 Although Plaintiff sought damages in her complaint for personal injuries and pain and suffering in
13 the hundreds of thousands of dollars, Defendants dispute the nature and the scope of the personal
14 injuries suffered by Plaintiff.

15 ¶4 Plaintiff testified that, at the time of the impact, she was wearing her seat belt and checking
16 out traffic in her side and rear mirrors. When her vehicle was hit from behind, her neck was
17 therefore extended, and she experienced pain between her shoulder blades and in her lower neck.
18 Following the injury, she was transported by ambulance to the Emergency Room at the
19 Commonwealth Health Center where she was diagnosed with neck and upper back strain and treated
20 with muscle relaxers and pain medication (Exs. "E" and "F"). A course of physical therapy was also
21 recommended (Ex. "G").

22 ¶5 Plaintiff testified that although she experienced temporary facial paralysis and considerable
23 discomfort as a result of the injuries sustained in this accident, she has not experienced any
24 permanent disability. Nor did she introduce any evidence establishing that she would require future
25 medical care or therapy. Although an award for future economic loss on these facts would therefore
26 be unwarranted, the court finds that Plaintiff did miss 77 hours of work. *See* Ex. "I." At her hourly
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1 rate, Plaintiff is thus entitled to \$1,575.42 in lost wages.^{2/} Plaintiff further made several trips to
2 Guam for medical treatment and seeks reimbursement for airfare for round trip tickets that she
3 purchased for herself and her escort, Leon Taisacan, in the amount of \$858.72. The court concludes
4 that Plaintiff is entitled to recover these costs, and is further entitled to compensatory damages for
5 medical expenses incurred during treatment in Guam and at the Commonwealth Health Center in
6 the additional amount of \$2,647.95. See Ex. "H."

7 ¶5 In evaluating the extent of Plaintiff's noneconomic damages, the court found the testimony
8 of two witnesses persuasive. Accident reconstructionist Dr. Frank Perez testified that, based upon
9 his review of certain photographs of the damaged vehicles (Ex. B-2 through B-76 and Exs. 31,32,
10 62 and 64) as well as relevant police and accident reports, the "vehicle transfer speed" was, at best,
11 only three to four miles per hour. Dr. Perez' findings were essentially undisputed. Based upon the
12 vehicle transfer speed along with the absence of any significant damage to Plaintiff's neck, spine
13 and chest, Dr. John W. Henrickson, Defendants' medical expert, subsequently concluded that
14 Plaintiff's claim for non-economic damages should be discounted. Although Plaintiff claimed to
15 have experienced temporary paralysis in half of her face as well as one side of her body, Dr.
16 Henrickson pointed out the medical improbability of any such injury and emphasized that, in any
17 event, Plaintiff did not require long-term physical therapy or take extended leave from work,
18 Plaintiff submitted no expert testimony to contradict the findings of Dr. Henrickson, and although
19 she subpoenaed internist Dr. James Hofschneider to give testimony on her behalf, Dr. Hofschneider
20 was unable to appear and indicated, in a letter to the court, that in his opinion, Plaintiff's cause
21 would be better served by the testimony from a neurosurgeon, orthopedic specialist, or other
22 licensed physician with more experience and training in trauma medicine and its long-term effects.

23 ¶6 A person injured at the hands of another may experience pain, discomfort, fears, as well as
24 anxiety and other mental and emotional distress, also known as "pain and suffering." No definite
25 standard or method of calculation is prescribed by law by which the court is expected to fix

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27 ^{2/} Plaintiff's annual salary is \$42,558.00. Her hourly rate is \$20.46.

1 reasonable compensation for these injuries, nor is the opinion of any witness required in determining
2 the amount of reasonable compensation. In making an award for pain and suffering, the only
3 restriction is that the award of damages be just and reasonable in the light of the evidence. *E.g.*,
4 *Salgado v. County of Los Angeles*, 19 Cal.4th 629, 80 Cal. Rptr.2d 46 (1998) (quoting CAL.JURY
5 INSTRUCT. - CIVIL 14.13 (8th ed.1994); *Beaulieu v. Elliott*, 434 P.2d 665, 674-76 (Alaska 1967).
6 ¶7 Plaintiff failed to provide evidence to counter the testimony of Defendants' experts, and she
7 has not convinced the court that the accident caused her to limit or discontinue, in a significant
8 manner, any life activities. At the same time, the court heard evidence that Plaintiff has become
9 more introverted and that she no longer enjoys, as she once did, parties and dancing. Accordingly,
10 and based on the circumstances of this case including, but not limited to, the medical evidence
11 presented, the court finds an award of \$10,000 to be fair and reasonable compensation for Plaintiff's
12 non-economic losses.

13 CONCLUSION

14 ¶8 Accordingly, it is hereby ORDERED that judgment enter jointly and severally in favor of
15 Plaintiff and against Defendants Edward I. Sablan and Dongbu Insurance Co., Ltd in the amount of
16 \$15,082.09 on Plaintiff's claim for personal injuries.

17
18 SO ORDERED this 19th day of October, 2001.

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20 BY THE COURT:

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23 /s/
TIMOTHY H. BELLAS, Associate Judge