
Verdicts & Settlements

MOTOR VEHICLE

Highway Crash Causes Spinal Injuries

Verdict: \$5 million

Conlon v. Foley, 37370/00

Court: Kings Supreme, Justice Sylvia Hinds-Radix (liability); Justice David B. Vaughan (damages), ept. 25

Plaintiff Attorney: Manuel A. Romero, Brooklyn
Defense Attorney: Dan Schneider, trial counsel, Wallace D. Gossett, Brooklyn

Facts & Allegations: On July 12, 1999, plaintiff Kathleen Conlon, a pregnant teacher in her 20s, was

driving on the eastbound side of the Brooklyn-Queens Expressway, in Brooklyn. As she approached an overpass at 27th Street, she encountered traffic. While she was decelerating, she was rear-ended by a bus. The car buckled, and Conlon claimed she sustained back injuries. Her unborn children were unharmed.

Conlon sued the bus's driver, Charles Foley Jr., and the bus's owner, the New York City Transit Authority. She alleged Foley was negligent in the operation of his vehicle and the authority was vicariously liable for his actions.

Conlon's counsel moved for summary judgment of liability, and the motion was granted. The trial addressed damages.

Injuries/Damages: Conlon was taken to Lutheran Medical Center for minor treatment but her pregnancy prevented performance of diagnostic tests.

The day after the accident, she presented to a chiropractor, and began treatment that included physical therapy. The treatment spanned about six months, and Conlon did not work during that time.

In November 1999, Conlon underwent MRI scans, and she claimed the results indicated she was suffering herniations of her L4-5 and L5-S1 intervertebral discs. The tests also revealed a bulge of her L3-4 disc. She contended the injuries were results of the accident.

Conlon further claimed she suffered residual pain that was addressed via the administration of epidural injections of steroid-based painkillers. However, she contended her pain persisted, and she ultimately underwent a laminectomy, or the excision of a vertebra's posterior arch. She contended she will have to undergo further treatment that will include the administration of additional painkilling epidural injections. She intended to claim that she will have to undergo additional surgery, but that claim was precluded by Justice Vaughan.

Conlon sought recovery of a total of \$4.5 million for her past and future pain and suffering. Her husband presented a derivative claim.

Defense counsel contended that Conlon did not sustain a serious injury, as defined by the no-fault law, Insurance Law §5102(d). He claimed the MRI scans merely revealed bulging discs and degeneration of her spine. He contended that those injuries were not likely results of the accident, and he claimed that the degenerative condition could have been a result of obesity and the weight that Conlon gained during her pregnancy.

Result: The jury found that Conlon suffered permanent consequential limitation of use of a body organ or member, among other things. Thus, it concluded she sustained a serious injury and determined her damages totaled \$5 million, all for past pain and suffering.

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