

**Case Name:** Lockley v CSX Transportation, Inc.  
**Date Decided:** March 30th, 2009  
**Originally Filed in:** Pennsylvania (State)  
**Decided by:** Pennsylvania Commonwealth Court (State)  
**Court:** Court of Common Pleas of Pennsylvania, Philadelphia  
**Judge:** Judge Jackson  
**Citation:** 2009 WL 2055272 (Pa.Com.Pl.)

**Background:**

On May 2, 2008, CSX Transportation was found in violation of the Federal Locomotive Inspection Act ("FLIA") and negligent pursuant to the Federal Employer's Liability Act ("FELA") and that plaintiff, Albert Lockley ("Lockley") was 22 percent comparatively negligent. Lockley received a \$2 million dollar judgment in damages. The defendant, CSX, has filed motions including, excessive verdict, requesting remittitur, and seeking an offset.

**Issue:**

Should the Court grant CSX's motion on the grounds that the verdict was excessive and that the jury failed to offset?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Boiler Inspection Act*
- *Cumulative Trauma Case*
- *Found Plaintiff Comparatively Negligent*
- *Procedural Issues - State*

**Held:**

A substantial verdict, if supported by evidence, must be permitted to stand and will not be set aside when there is nothing to suggest that the jury was in any way guided by partiality, prejudice, mistake, or corruption. Moreover, remittitur is also appropriate only if an award is plainly excessive or exorbitant. The Superior Court in *Kemp v. Philadelphia Transportation Co.*, set forth several factors to determine the reasonableness of a jury verdict: (1) Severity of injuries; (2) Whether the injury is demonstrated by physical evidence; (3) Whether the injury will affect plaintiff permanently; (4) Plaintiff's ability to continue employment; and (5) The disparity between expenses and verdict amount. Evidence established that Lockley's neck pains, numbness and tingling started approximately five years before trial and his life expectancy is at least an additional 25 years. Lockley confirmed he suffers from daily pains and at night it is worse causing him to take sedatives to sleep. There was evidence established that confirmed the injury was caused by his work activities and it is indeed, permanent. Mr. Lockley has testified to the effect of the pain has on his daily life. Furthermore, his expert doctor, testified Lockley's future lost earnings were anywhere from \$750k-\$850k. Finally this Court held that a

FELA plaintiff whose horizons have been limited by spinal surgery is entitled to compensatory damages for loss of future earning capacity. Accordingly, defendant's motions were denied.

**Comments:**

Ultimately, the evidence presented by Lockley was sufficient to sustain the verdict. As outlined, the standard to overturn a jury verdict is quite high. The appellant must show the verdict was a result of mistake, clear error of the law, or corruption. Furthermore, only when the award is plainly excessive or exorbitant will the verdict be reversed.

Steve Gordon