

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D23753
T/kmg

_____AD3d_____

Argued - April 30, 2009

PETER B. SKELOS, J.P.
STEVEN W. FISHER
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2008-00126

DECISION & ORDER

Irma Roman, respondent, v Brooklyn Navy Yard
Development Corp., et al., defendants, I. Gold Corp.,
d/b/a I. Gold & Sons, et al., appellants.

(Index No. 30531/00)

Cheven, Keely & Hatzis, New York, N.Y. (Thomas Torto of counsel), for appellants.

James J. McCroie, P.C., Jericho, N.Y. (Lefkowitz, Hogan & Cassell, LLP [Shaun K. Hogan] of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants I. Gold Corp., d/b/a I. Gold & Sons, Abinal Pinero, and Monroe Truck Leasing appeal from a judgment of the Supreme Court, Kings County (Knipel, J.), dated November 13, 2007, which, upon remittitur from this Court limited to a new trial on the issue of damages for future medical expenses (*Roman v I. Gold Corp.*, 35 AD3d 833), and upon a jury verdict finding that the plaintiff sustained damages for future medical expenses in the principal sum of \$306,200, and upon the denial of their motion pursuant to CPLR 4404(a) to set aside the verdict and for judgment as a matter of law or, in the alternative, to set aside the verdict as contrary to the weight of the evidence and for a new trial, is in favor of the plaintiff and against them, as reduced pursuant to Insurance Law § 5104, in the principal sum of \$264,938.43.

ORDERED that the judgment is affirmed, with costs.

Before granting a motion pursuant to CPLR 4404(a) to set aside a verdict and for judgment as a matter of law, the trial court must conclude that there is “simply no valid line of reasoning and permissible inferences which could possibly lead rational [people] to the conclusion

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reached by the jury on the basis of the evidence at trial” (*Cohen v Hallmark Cards*, 45 NY2d 493, 499; *see Firms v Chase Manhattan Auto. Fin. Corp.*, 50 AD3d 18, 29). Here, there is a rational view of the evidence that supports the jury’s award for future medical expenses (*see Ayala v Lindy’s Dispatching, Inc.*, 54 AD3d 699, 700; *White v Kim*, 29 AD3d 685; *Martelli v City of New York*, 219 AD2d 586). Moreover, the jury’s award for future medical expenses was based upon a fair interpretation of the evidence, and thus, was not contrary to the weight of the evidence (*see Scibelli v Eugene G. Herman, O.M.O., P.C.*, 49 AD3d 627; *Nicastro v Park*, 113 AD2d 129, 134).

SKELOS, J.P., FISHER, BELEN and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court