

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

D29887
O/prt

_____AD3d_____

Argued - January 13, 2011

ANITA R. FLORIO, J.P.
THOMAS A. DICKERSON
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2009-10933

DECISION & ORDER

Courtney Graves, respondent, v New York City
Transit Authority, appellant.

(Index No. 11185/06)

Wallace D. Gossett, Brooklyn, N.Y. (Anita Isola of counsel), for appellant.

John K. Avanzino, P.C. (Pollack, Pollack, Isaac & De Cicco, New York, N.Y. [Brian J. Isaac and Jillian Rosen], of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from a judgment of the Supreme Court, Kings County (Schack, J.), entered October 14, 2009, which, upon a jury verdict awarding the plaintiff the principal sums of \$250,000 for past pain and suffering, \$50,000 for past medical expenses, \$100,000 for future pain and suffering, and \$50,000 for future medical expenses, and upon a stipulation reducing the award for past medical expenses to the principal sum of \$41,166, is in favor of the plaintiff and against it in the principal sum of \$441,166.

ORDERED that the judgment is affirmed, with costs.

The amount of damages to be awarded to a plaintiff for personal injuries is a question for the jury, and its determination will not be disturbed unless the award deviates materially from what would be reasonable compensation (*see* CPLR 5501[c]; *Chery v Souffrant*, 71 AD3d 715, 716; *Keaney v City of New York*, 63 AD3d 794, 795). Under the circumstances presented here, the award

February 1, 2011

Page 1.

GRAVES v NEW YORK CITY TRANSIT AUTHORITY

did not deviate materially from what would be reasonable compensation.

FLORIO, J.P., DICKERSON, CHAMBERS and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court