

COURT OF APPEAL
FIFTH APPELLATE DISTRICT
FILED

OCT 28 1998

Eve Sproule Court Administrator/Clerk
By _____ Deputy

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

JOSEPH LOGUDICE,

Plaintiff and Respondent,

v.

CONTINENTAL C. EXPRESS et al.,

Defendants and Appellants.

F029132

(Super. Ct. No. 229779)

OPINION

APPEAL from a judgment of the Superior Court of Kern County. Arthur E. Wallace, Judge.

Berman, Berman & Berman, Evan A. Berman, Christopher C. McNatt, Jr., and Lori A. Beccaria, for Defendants and Appellants.

Martin L. Horwitz, for Plaintiff and Respondent

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FACTS

Appellant Inderjit Singh Bhabbra was employed by appellant Continental C. Express and was driving an 18-wheel tractor-trailer on Highway 58 in Mojave. Respondent Joseph Logudice, the 36-year-old manager of Village Car Wash in Westlake Village, was driving his red Chevy truck on Highway 58 in the opposite direction. Bhabbra made a left turn to enter the Giant Truck Stop. Logudice was unable to stop his

Chevy truck in time and collided with Bhambra's 18-wheeler. Logudice's face hit his Chevy's steering wheel, and his four top middle front teeth were smashed in. Shortly thereafter those four teeth were removed by Dr. Gilbert Abilez. Logudice also claimed to have suffered neck and back injuries.

At the trial of Logudice's civil action against Bhambra and Continental C. Express, the issues were (1) how fault should be allocated for the accident, (2) the nature and extent of Logudice's injuries and his pain and suffering, and (3) the dollar value to be placed upon whatever injuries and pain and suffering Logudice had incurred. Logudice contended that the accident was entirely Bhambra's fault. Bhambra and Continental contended that Logudice had been inattentive and that the accident was at least partially Logudice's fault. Logudice asked the jury to award him more than a million dollars in damages, consisting of more than \$16,000 of medical bills incurred prior to trial, about \$60,000 in future medical expenses, \$16,000 for his damaged Chevy truck, \$10,500 in lost earnings for his 14 weeks of missed work following the accident, over \$710,000 for an alleged loss of future earnings, and more than \$310,000 in pain and suffering. The defense argued that even if the jury thought Bhambra was entirely responsible for the accident, the jury "(a)t most ... should award plaintiff the total amount of \$10,000." This consisted of \$6,000 for a permanent bridge for his missing teeth, \$1,000 for his treatment by Dr. Abilez, and "if you believe plaintiff suffered any back or neck injury, you should give him \$3,000 for that." The jury agreed with Logudice that the left-turning Bhambra was 100 percent at fault for the accident, but the jury did not award Logudice anything close to the million plus dollars he had sought. The jury instead awarded him a total of \$117,114, consisting of \$67,114 in economic damages plus \$50,000 in non-economic damages.

A major topic of disagreement at the trial was the extent of Logudice's alleged back pain and neck pain. Appellants Continental and Bhambra contend that the trial court erred in excluding from evidence a videotape taken shortly before trial. The video shows

