



CARMELA FERNANDES v. JOSEPH HAGGERTY

295 N.Y.S.2d 608 (1968) | Cited 21 times | New York Supreme Court | November 4, 1968

In our opinion, the jury's verdict in favor of Carmela Fernandes was neither "so inadequate as to shock judicial conscience" (Seward v. Motz, 22 A.D.2d 1009) nor "unconscionable" (Cesario v. Demetria Realty Corp., 250 App. Div. 272, 273). Nor does it appear on this record that the verdict was capricious or the result of passion, prejudice or sympathy (Jordan v. Smyk, 262 App. Div. 414, 416). Under these circumstances, a trial court should not lightly usurp the function of the jury in fixing the amount of damages.

Disposition

Order reversed insofar as appealed from, with costs; in accordance, the second and third decretal paragraphs thereof are struck out and said plaintiff's motion denied; and jury verdict as to said plaintiff reinstated.

