

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Sharpe v. Abbott*, 2007 NSCA 6

**Date:** 20070118

**Docket:** CA 263736

**Registry:** Halifax

**Between:**

Thomas W. Abbott and Patrick W. Abbott

Appellants

v.

Tammy Murina Sharpe

Respondent

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**Judge:** The Honourable Justice Jamie W. S. Saunders

**Appeal Heard:** October 11, 2006

**Subject:** Assessment of damages by jury. Responsibilities in trial management. Standard of review. Causation. Conflicting medical evidence. Functional approach to damages. Whether “cap” applies. Whether to instruct jury on a “range.” Proper test for deciding whether jury award is “perverse” and ought to be varied. Diminished future earning capacity. Loss of future care. Loss of valuable services. Costs.

**Summary:** Following a very minor motor vehicle accident in 1998, the claimant was awarded damages totalling \$750,000.00 by a jury for injuries she said had a catastrophic impact on her life leaving her with constant chronic pain, permanently disabled and virtually unemployable.

The defendants appealed saying the award was perverse and that the trial judge erred in law and in the exercise of his discretion, the cumulative effect of which led the jury to carry out a completely erroneous assessment of the value of the respondent’s claim. Appellants asked that the matter be remitted to the trial judge for a complete reassessment of damages, or alternatively, sought a new trial, or have this court substantially reduce the jury award.

**Held:** Appeal allowed in part by reducing the award for non-pecuniary damages from \$225,000.00 to \$100,000.00, together with the coincidental reduction in costs. In all other respects the jury's decision stands.

Extensive review of authorities on a myriad of issues including: standard of review; causation; discretionary rulings; credibility; assessment of damages; whether "cap" applies; whether to instruct a jury on a "range"; the proper "test" when conducting appellate review of a jury damage award; non-pecuniary damages as well as other heads of damage; and costs.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 47 pages.**