

# **Bond Case Briefs**

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## **NEGLIGENCE - NEW YORK**

### **Schneider v. Hanasab**

**Supreme Court, Appellate Division, Second Department, New York - October 5, 2022 - N.Y.S.3d - 2022 WL 5065968 - 2022 N.Y. Slip Op. 05552**

Executrix of motorized-scooter rider's estate brought personal injury and wrongful death action against driver and town, alleging that as a result of defendants' negligence, rider was struck by driver's vehicle at an intersection in town.

After jury found that both driver and the town were negligent, apportioned liability 70% to the town and 30% to driver, and awarded plaintiff damages in the principal sums of \$2,000,000 for the decedent's conscious pain and suffering and \$125,000 for loss of services, the Supreme Court, Nassau County, denied driver's motion to set aside the jury verdict and for new trial and denied town's motion to set aside the jury verdict and for judgment as a matter of law or a new trial. Defendants separately appealed.

The Supreme Court, Appellate Division, held that:

- Jury finding that town was 70% at fault was not contrary to the weight of the evidence;
- Jury's award of principal sum of \$2,000,000 for rider's conscious pain and suffering was not contrary to the weight of the evidence; but
- Jury's award of damages for loss of services in the sum of \$125,000 was contrary to the weight of the evidence.

Jury verdict finding town 70% at fault was not contrary to the weight of the evidence in personal injury and wrongful death action brought by executrix of motorized-scooter rider's estate against driver and town, alleging that as result of defendants' negligence, rider was struck by driver's vehicle at an intersection in town, where there was valid line of reasoning and permissible inferences that could lead rational persons to jury's conclusion that town was negligent with respect to placement of stop line at intersection where rider was struck and that such negligence was proximate cause of accident, and jury's apportionment of fault was supported by fair interpretation of the evidence.

Jury verdict awarding executrix of motorized-scooter rider's estate principal sum of \$2,000,000 for rider's conscious pain and suffering was not contrary to the weight of the evidence in personal injury and wrongful death action brought by executrix against driver and town, alleging that as result of defendants' negligence, rider was struck by driver's vehicle at an intersection in town, where opinion of executrix's medical expert regarding pain rider experienced between time of accident and his death four days later, together with executrix's testimony regarding her observations of rider during his hospitalization, sufficiently demonstrated degree of rider's consciousness and severity of pain he suffered, and award did not deviate materially from what would be reasonable compensation.

Jury's award of damages for loss of services in the sum of \$125,000 was contrary to the weight of the evidence in personal injury and wrongful death action brought by executrix of motorized-scooter

rider's estate against driver and town, alleging that as result of defendants' negligence, rider was struck by driver's vehicle at an intersection in town, where loss of services for four days was not supported by showing of cost of replacing the rider's household services.