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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-1724**

Katie M. McRae,  
Appellant,

vs.

Joel J. Krochalk,  
Respondent.

**Filed July 16, 2012  
Affirmed  
Kalitowski, Judge**

St. Louis County District Court  
File No. 69DU-CV-10-2361

James W. Balmer, Sean Quinn, Falsani, Balmer, Peterson, Quinn & Beyer, Duluth, Minnesota (for appellant)

Jay P. Yunek, Eden Prairie, Minnesota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Kalitowski, Judge; and Chutich, Judge.

**UNPUBLISHED OPINION**

**KALITOWSKI**, Judge

In this appeal following a jury verdict on her personal-injury claim arising out of an automobile collision, appellant Katie M. McRae asserts that the district court erred by denying her motion for a new trial on damages, contending that the jury's award is not justified by the evidence and is the result of passion or prejudice. We affirm.

## DECISION

Appellant Katie McRae and respondent Joel J. Krochalk were involved in a motor vehicle accident. McRae claimed that as a result of the accident, she suffered an injury to her right shoulder. A jury found Krochalk solely responsible for the accident and awarded McRae \$3,996 for past medical expenses. The jury awarded no damages for past or future pain and suffering. On appeal, McRae argues that the district court abused its discretion in denying her motion for a new trial on damages because the jury's verdict is not justified by the evidence and is the result of passion or prejudice. *See* Minn. R. Civ. P. 59.01(e), (g) (stating grounds on which a district court may grant a new trial).

A reviewing court does not set aside a jury verdict on damages “unless it is manifestly and palpably contrary to the evidence viewed as a whole and in the light most favorable to the verdict.” *Raze v. Mueller*, 587 N.W.2d 645, 648 (Minn. 1999) (quotations omitted). Generally, a new trial on damages will be granted only where the verdict is so inadequate or excessive that it “could only have been rendered on account of passion or prejudice.” *Flanagan v. Lindberg*, 404 N.W.2d 799, 800 (Minn. 1987) (quotation omitted). “A [district] court has the broadest possible discretion to determine whether a new trial should be granted based on an inadequate award of damages. Its decision will not be reversed absent a clear abuse of that discretion and the existence of the most unusual circumstances.” *Rush v. Jostock*, 710 N.W.2d 570, 577 (Minn. App. 2006) (quotation omitted), *review denied* (Minn. May 24, 2006). “An appellate court must reconcile the special verdict answers in a reasonable manner consistent with the

evidence and its fair inferences. The verdict should stand if the answers can be reconciled on any theory.” *Raze*, 587 N.W.2d at 648 (quotation and citation omitted).

At trial, McRae offered evidence that after the accident she received treatment from her primary-care physician, an orthopedic specialist, and an orthopedic surgeon, and underwent physical therapy and surgery. The parties stipulated for foundational purposes that McRae incurred \$19,980.85 in medical expenses in the treatment of her right shoulder from the time of the automobile accident to the time of trial. But the parties disputed whether those expenses were reasonable and necessary to treat an injury caused by the accident.

McRae offered expert testimony by Dr. Jeffrey Klassen, the orthopedic surgeon who diagnosed her with multidirectional instability (MDI) in her right shoulder and performed surgery to treat the condition. MDI is a condition in which part of the shoulder joint is loose and the joint has an abnormal level of instability. Klassen testified that the accident was a direct cause of McRae’s MDI and that the medical expenses McRae incurred in treating her MDI were reasonable and necessary to address her condition. He stated that McRae did not experience instability prior to the accident, that she began experiencing symptomology within hours after the accident, and that her pain pattern was consistent with the injury being caused by the accident. Klassen opined that McRae suffered a permanent injury to her shoulder caused by the accident.

Dr. Mark Carlson, an orthopedic surgeon, conducted an independent medical examination of McRae and testified for the defense. Carlson opined that as a result of the accident McRae suffered a temporary simple sprain or contusion to her right shoulder and

that physical therapy was the only reasonable and necessary medical treatment for this injury. Carlson agreed with Klassen's diagnosis of MDI, but testified that MDI is a chronic condition that develops over time and that McRae developed MDI before the accident. He opined that her MDI was not caused by or related to the accident and that any treatment of that condition, including her surgery, was not related to the accident.

“When there is conflicting medical testimony as to the nature and extent of a plaintiff's injuries, we give great deference to the jury's verdict.” *Raze*, 587 N.W.2d at 648. Here, the jury verdict can be reconciled with the evidence in the record and the inferences the jury could have drawn from the evidence. The jury could have reasonably believed Carlson's testimony and concluded that as a result of the accident McRae sustained only a temporary injury to her right shoulder and that the reasonable and necessary treatment for such an injury was physical therapy. The jury could have reasonably disbelieved Klassen's testimony that the accident caused McRae's MDI.

Significantly, neither party provided the jury with a breakdown of the medical expenses. The jury was told only that the parties stipulated that \$19,980.85 was the amount of reasonable medical expenses related to the treatment of McRae's right shoulder since the time of the collision. Thus, consistent with Carlson's testimony that physical therapy was reasonable and necessary to treat the injury McRae sustained from the accident, the jury could have inferred that \$3,996 was a reasonable amount for the physical therapy. Thus, the jury award of \$3,996 for past medical expenses is justified by the evidence.

McRae asserts that her case is analogous to *Van Guilder v. Nat'l Freight, Inc.*, 686 N.W.2d 339, 343-44 (Minn. App. 2004), *abrogated on other grounds by Goodyear Tire & Rubber Co. v. Dynamic Air, Inc.*, 702 N.W.2d 237, 245-46 (Minn. 2005). In *Van Guilder*, a jury awarded the plaintiff \$100,000 for past medical expenses despite evidence of past “medical bills” in the amount of \$293,908.21 and other past expenses for “home health-care services.” *Id.* at 343. The plaintiff moved for judgment notwithstanding the verdict, arguing that the jury award was inadequate because the parties had stipulated that \$293,908.21 in past medical expenses were reasonable and necessary. *Id.* The district court concluded that the parties stipulated only to the foundation for the past medical bills, but not that they were reasonable and necessary, and denied the motion. *Id.* This court reversed, reasoning that the record contained no “disputed evidence as to the amount, reasonableness, or necessity” of the plaintiff’s past medical expenses, and absent such evidence, there was no dispute as to the damages for past medical expenses.” *Id.* at 344.

*Van Guilder* is distinguishable. Here, it is undisputed that the parties disagreed as to the nature of the injury caused by the accident and the amount of reasonable medical expenses necessary to treat the injury. Krochalk never stipulated to the reasonableness or necessity of the total amount of past medical expenses, and he provided evidence controverting McRae’s assertions that the accident caused her MDI and that the total amount of medical expenses was reasonable and necessary to treat an injury resulting from the accident.

McRae also argues that the verdict is the result of passion or prejudice because it is insufficient. But this argument is unavailing because the damages are not insufficient as a matter of law in light of the evidence in the record. Thus, the district court did not abuse its discretion in denying McRae's motion for a new trial.

**Affirmed.**