Circuit Court for Prince George's County
Case No. CAL20-16858

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1098

September Term, 2022

PRINCE GEORGE'S COUNTY, MARYLAND

v.

BRADLEY SCHROEDER

Reed,
Beachley,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: September 2, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

While working for the Prince George's County Fire Department, Bradley Schroeder, the Appellee, suffered an injury to his back during a training exercise. Based on his injuries, the Appellee filed a worker's compensation claim. The Worker's Compensation Commission found that the Appellee had a 3.5% permanent partial disability. The Appellee appealed this ruling to the Circuit Court for Prince George's County. After a trial, the jury returned a verdict of 63% permanent partial disability. The Prince George's County Government, the County, filed a Motion for a New Trial, arguing that this verdict was grossly excessive, which the trial court denied. The County appealed the judgment to this Court.

In bringing its appeal, the County presented two questions for appellate review, which we consolidate into one: Whether the trial court abused its discretion in denying the motion for a new trial?[1] For the following reasons, we affirm the decision of the Circuit Court for Prince George's County.

FACTUAL & PROCEDURAL BACKGROUND

The Appellee began working for the Prince George's County Fire Department in June of 2015. On January 9, 2019, he participated in a training exercise at an abandoned

[1]The County presented two questions in its brief:

I. Whether the trial court erred in its Order of August 2, 2022, denying the County's Omnibus Motion for New Trial or Remittitur and Motion to Alter or Amend, on the basis that the judge should have granted a new trial because the jury's verdict was grossly excessive?

II. Whether the judgment or verdict was grossly excessive or immediately shocks the conscious?

building. Part of the training involved a series of tasks performed with full gear, with the final task being a simulation of the ceiling falling on the firefighter. This simulation involved a heavy six-foot by ten-foot chain-link fence coming down directly on top of the firefighter. When the Appellee got to this part of the simulation, the other firefighters put the fence down on him. The Appellee threw it off and knelt on all fours on the ground. The instructor then jumped on the Appellee's back and the Appellee flattened out on the floor, held down by the others until he called for a mayday on his radio. The Appellee's back began to hurt immediately after this exercise.

The Appellee went to a doctor and returned to work in the first week of March 2019. His injury prevented him at first from bending down or sitting for long periods of time. He was only working light duty at the time and then went to physical therapy for multiple hours. His therapy involved core exercises to stretch and strengthen his back, which he said made his injuries mildly better. He continued to do physical therapy exercises through the time of the trial. The Appellee took anti-inflammatory medication, which he said did not help with his symptoms. He had no surgeries, but he did claim to have an injection of an anti-inflammatory.

The Appellee filed a worker's compensation claim. A hearing was held by the Workers' Compensation Commission on September 25, 2020. By this time, the Appellee had returned to his full duties. However, he was not working any voluntary overtime like he had prior to his injuries because he needed to rest his back. His injuries prevented him from playing softball and golf. The Appellee said that at the time of the hearing his symptoms had not resolved. The Appellee said he still had pain during 24-hour shifts,

especially when he was crawling around. The pain was shooting pain down his back and he experienced stiffness between his shoulder blades.

The Commission found that the Appellee had no temporary total disability but found there was 3.5% permanent partial disability. The Appellee was awarded a weekly payment of $372.00 for 17.5 weeks.

On October 6, 2020, the Appellee appealed this ruling to the Circuit Court for Prince George's County. The case was heard by a jury on July 1, 2022, before the Honorable William A. Snoddy. At the trial, both sides presented their experts by way of video. The Appellee's expert, Dr. Harvinder Pabla, testified that the Appellee had 32% permanent partial impairment. He testified that the Appellee had a blown disk in his lower lumbar level. The County's expert, Dr. Robert Riederman, testified that the Appellee had 0% permanent partial impairment to his spine and was at maximum medical improvement. The Appellee also testified to his injuries, as described above.

In the Appellee's closing argument, Appellee's counsel walked the jury through the factors from the Labor and Employment statutes to determine the percentage of the Appellee's impairment.[2] Appellee's counsel's analysis suggested that the jury find the

[2] For cases of permanent partial disability that are not specifically mentioned, the percentage is determined based on factors including: "(i) the nature of the physical disability; and (ii) the age, experience, occupation, and training of the disabled covered employee when the accidental personal injury or occupational disease occurred." Md. Code, Lab. & Empl. § 9-627(k)(2).

In closing arguments, the Appellee took each factor and assigned it a point value out of twenty. Starting with the nature of the injury, the Appellee said that the disk "is completely flattened" so it was worth fifteen points out of twenty. For the Appellee's

Appellee had 75% permanent partial disability. The County argued to the jury that the Commission's decision was correct, and therefore the jury should uphold the 3.5% partial disability finding. The trial court submitted to the jury the question of the Appellee's permanent partial disability award. The jury returned a verdict of 63% permanent partial disability.

On July 6, 2022, the County filed a motion for new trial or remitter and motion to alter or amend the verdict. The County argued that the verdict was excessive and shocked the conscience and therefore the court should alter the final verdict. The Appellee filed an opposition to the motion on July 20, 2022, arguing the verdict was proper. The trial court denied the County's motion on August 2, 2022. The County appealed to this Court on the same day.

DISCUSSION

Motion for New Trial

A. Parties' Contentions

The County argues the trial court abused its discretion in denying their motion for a new trial. The County argues that given the inconsistencies and contradictions in the Appellee's testimony between the Commission hearing and jury trial, a new trial should

occupation, he assigned all twenty points because a firefighter is a job with an extreme physical nature. For the Appellee's age, the Appellee is young and often out in the field for his job, so he assigned ten out of twenty points. For the employee's training and experience, because of the employee's age he is a lower rank so he has more duties in the field, so he assigned fifteen out of twenty points. Finally, for the employee's earnings, the Appellee's wage did not change but he was not able to do as much overtime so he assigned four out of twenty points. This totaled to 75% permanent partial disability.

have been ordered. Since the evidence showed that the Appellee maintained a quality of life after his injury, the County claims the jury's verdict did not accurately reflect the nature of his physical limitations. The County further argues that the jury's verdict shocks the conscience based on the evidence presented at trial since the Appellee did not show sufficient evidence of the severity of his injuries and entitled him to additional payments that go well beyond the Commission's original award.

The Appellee argues that the verdict is a proper determination by the factfinder. The Appellee argues that the County's argument is not based on an allegation of legal error, so the trial court had the most discretion in making its ruling. The Appellee argues the jury was not bound by the determinations of the medical experts in coming to their conclusion and properly made findings of fact and determinations of credibility based on the evidence before them. As a result, the Appellee says that this Court should not substitute its judgment for that of the trial judge and we should uphold the trial court's decision to deny the motion for a new trial.

B. Standard of Review

"[T]he trial court has plenary discretion to grant or deny a motion for a new trial." *Spaw, LLC v. City of Annapolis*, 452 Md. 314, 362 (2017). "[A] trial court's order denying a motion for a new trial will be reviewed on appeal if it is claimed that the trial court abused its discretion." *Id.* at 363 (quoting *Buck v. Cam's Broadloom Rugs, Inc.*, 328 Md. 51, 57 (1992)). However, we do "not generally disturb the exercise of a trial court's discretion in denying a motion for new trial." *Id.* (quoting *Buck*, 328 Md. at 57). As long as the trial court "applies the proper legal standards and reaches a reasonable conclusion based on the

facts before it," then this Court should not reverse their decision merely because we reach a different one. *Id.* (quoting *Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 242 (2011)). To find an abuse of discretion, the trial court's decision must be "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *CSX Transp., Inc. v. Pitts*, 203 Md. App. 343, 396 (2012), *aff'd*, 430 Md. 431 (2013) (quoting *Hebron Volunteer Fire Dep't, Inc. v. Whitelock*, 166 Md. App. 619, 629 (2006)).

C. Analysis

"Any party may file a motion for new trial within ten days after entry of judgment." Md. Rule 2-533(a). The court then "may set aside all or part of any judgment entered and grant a new trial to all or any of the parties and on all of the issues, or some of the issues if the issues are fairly severable." *Id.* at 2-533(c). Here, the County filed the motion for a new trial, arguing that the jury's verdict in the case was excessive and did not match the facts presented about the Appellee's injury.

A trial court may determine that a verdict was "grossly excessive" or "shocks the conscience of the court." *Blitzer v. Breski*, 259 Md. App. 257, 281 (2023), *cert. denied*, 486 Md. 237 (2023) (quoting *Cunningham v. Baltimore Cnty.*, 246 Md. App. 630, 703 (2020)); *see also Conklin v. Schillinger*, 255 Md. 50, 69 (1969) ("[I]t is for the trial judge to determine whether a verdict 'shocked his conscience,' was 'grossly excessive,' or merely 'excessive.") (citations omitted). The trial court's determination on "the excessiveness of damages or a motion for remittitur is within the discretion of the trial court." *Blitzer*, 259 Md. App. at 281 (quoting *Owens-Illinois, Inc. v. Zenobia*, 325 Md. 420, 449 (1992)).

The County points to *Conklin v. Schillinger*, 255 Md. 50 (1969), in support of their argument that the verdict was grossly excessive. In *Conklin*, the plaintiff sought damages from injuries received while driving the defendant's car. *Id.* at 52. The plaintiff was injured, but after treatment did not have extensive permanent injuries and was only out of work for one month. *Id.* at 70. The plaintiff's damages totaled to $10,000, but the jury returned a verdict of $100,000. *Id.* The trial court determined that the $100,000 verdict issued by the jury was "founded upon passion" and "so excessive as to shock the conscience of the [c]ourt." *Id.* The Supreme Court of Maryland held that the trial court did not abuse its discretion in granting a new trial for an excessive verdict. *Id.*

Here, the situation is reversed from *Conklin* and similar cases where the lower court chose to grant a new trial. *See Whitelock*, 166 Md. App. at 629 (finding no abuse of discretion when the trial court granted a motion for a new trial and remittitur when the verdict awarded $15,000 for past medical expenses, and $525,000 in non-economic damages). The lower court here chose not to grant a new trial and the question before this court is whether the court abused its discretion in denying that motion.

The County did not assert any legal error and their motion "did not deal with the admissibility or quality of newly discovered evidence, nor with technical matters." *Buck v. Cam's Broadloom Rugs, Inc.*, 328 Md. 51, 59 (1992); *see also Yiallouros v. Tolson*, 203 Md. App. 562, 574 (2012) (quoting same). When evaluating the trial court's discretion in whether or not to grant a new trial "the emphasis has consistently been upon granting the broadest range of discretion to trial judges whenever the decision has necessarily depended upon the judge's evaluation of the character of the testimony and of the trial when the judge

is considering the core question of whether justice has been done." *Id.* at 57. Without an assertion of a particular error on trial, "the exercise of [the trial court's] discretion under these circumstances depends so heavily upon the unique opportunity the trial judge has to closely observe the entire trial." *Id.* at 59. As a result, the trial court's discretion is one "that will rarely, if ever, be disturbed on appeal." *Id.*

We now turn to the County's specific allegation, which is that the jury's verdict was grossly excessive. The jury found that the Appellee had 63% permanent partial disability. This finding by the jury also differentiates this case from *Conklin* because where the jury in *Conklin* determined the monetary amount of damages, the jury here determined the percentage of permanent partial disability for the Appellant. This case was an appeal from the Workers' Compensation Commission. "An appeal from the Workers' Compensation Commission is essentially a *de novo* trial that may proceed before a judge or jury." *Chadderton v. M.A. Bongivonni, Inc.*, 101 Md. App. 472, 479 (1994) (citing Md. Code, Lab. & Empl. § 9-745). As a result, the jury had to decide the issue of the Appellee's extent of permanent partial disability.

A permanent partial disability is "permanent in duration and partial in extent." *Wal Mart Stores, Inc. v. Holmes*, 416 Md. 346, 354 n.2 (2010). Permanent disability payments are "not based solely on loss of wages," but instead on "actual incapacity to perform the tasks usually encountered in one's employment, and on physical impairment of the body that may or may not be incapacitating." *Queen v. Queen*, 308 Md. 574, 585–86 (1987). Maryland statutes set out the factors that should be considered when determining the percentage of permanent partial disability when the disability is not one specifically listed

in the statute. Md. Code, Lab. & Empl. § 9-627(k). These factors include "(i) the nature of the physical disability; and (ii) the age, experience, occupation, and training of the disabled covered employee when the accidental personal injury or occupational disease occurred."[3] *Id.* at § 9-627(k)(2)(i)–(ii).[4]

The jury heard evidence of the Appellee's ongoing impairment as a result of the

[3] These factors match the pattern jury instructions for a permanent partial disability:

> A determination of permanent partial disability is to be made in terms of percentage of disability. In making the determination of industrial loss of use, you shall consider the nature of the Employee's physical injury, the Employee's age, experience, occupation, and training at the time of the injury or disease, and the Employee's earnings before and after the injury.

MPJI-Cv 30:27. The jury heard this language before closing arguments.

[4] The relevant portion of the statute reads in full:

> (1) In all cases of permanent partial disability not listed in subsections (a) through (j) of this section, the Commission shall determine the percentage by which the industrial use of the covered employee's body was impaired as a result of the accidental personal injury or occupational disease.
>
> (2) In making a determination under paragraph (1) of this subsection, the Commission shall consider factors including:
>
> (i) the **nature** of the physical disability; and
>
> (ii) the **age, experience, occupation, and training** of the disabled covered employee when the accidental personal injury or occupational disease occurred.
>
> (3) The Commission shall award compensation to the covered employee in the proportion that the determined loss bears to 500 weeks.
>
> (4) Compensation shall be paid to the covered employee at the rates listed for the period in §§ 9-628 through 9-630 of this Part IV of this subtitle.

Md. Code, Lab. & Empl. § 9-627(k) (emphasis added).

injury to his back, showing the nature of his physical disability.[5] He testified to how his symptoms had not resolved and when he was on shift, he would have shooting pain down his back and stiffness between his shoulder blades. As a result, the Appellee had to reduce the number of overtime shifts he took on, decreasing his compensation. Regarding the age, experience, occupation, and training of the Appellee, he was a firefighter, a job that is extremely physical, and at the start of his career, which means he is out in the field more often for the start of his career. In closing arguments, the Appellee examined the factors in the statute and said that the jury should find the Appellee had 75% permanent partial disability.[6] By contrast, the County argued to the jury that they should just uphold the

[5] The County argued that the Appellee's testimony had contradictions and inconsistencies that undermined the jury's verdict. This court "will not disturb [the trial] court's factual findings unless those findings (taken on their own merits) were clearly erroneous." *Kelly Catering, Inc. v. Holman*, 96 Md. App. 256, 269 (1993), *aff'd*, 334 Md. 480 (1994). This standard applies "irrespective as to . . . how the circuit court's findings comport with the Commission's findings." *Id.* We recognize that the County identified some of these inconsistencies related to the Appellee's treatment on cross examination, however, the jury and trial court heard that evidence and still decided to rule against the Commission's original findings.

We will not disturb the factfinders' determinations in resolving any alleged inconsistencies in the Appellee's testimony, as it was for the finder of fact to determine "which evidence to accept and which to reject." *Att'y Grievance Comm'n of Maryland v. White*, 480 Md. 319, 387 (2022) (quoting *Jones v. State*, 343 Md. 448, 460 (1996)). We must defer to the fact-finders absent clear error "because it is the trier of fact, and not the appellate court, that possesses a better opportunity to view the evidence presented first-hand, including the demeanor-based evidence of the witnesses, which weighs on their credibility." *Id.* (quoting *State v. Manion*, 442 Md. 419, 431 (2015)). Based on the verdict and the trial court's upholding of that verdict, the fact-finders found the Appellee credible and we do not find that determination to be clearly erroneous.

[6] *See supra* footnote 2 for how the Appellee came to this percentage in closing arguments.

Commission's 3.5% partial disability finding. The jury returned a verdict between these values, albeit much closer to the Appellee's suggestion.

In deciding whether to grant a new trial based on the jury's verdict, the trial court "must act in deference to the jury's verdict because 'the jury is sacrosanct and its importance is unquestioned.'" *Blitzer*, 259 Md. App. at 281 (quoting *John Crane, Inc. v. Puller*, 169 Md. App. 1, 53 (2006)). The jury was instructed that the Commission's decision was presumed to be correct. We presume that the jury followed the judge's instructions. *Kazadi v. State*, 467 Md. 1, 36 (2020) (quoting *Newton v. State*, 455 Md. 341, 360 (2017)). The jury, after hearing the evidence presented by the Appellee, concluded over the presumption in favor of the Commission that the Commission was wrong and subsequently awarded the Appellee a higher percentage of permanent partial disability. The trial court, in deferring to the "sacrosanct" jury's verdict, did not abuse its discretion in upholding the verdict and denying the County's motion for a new trial.

The County also argued that the jury's verdict was grossly excessive because it exceeded the percentage testified to by both sides' experts. The Appellee's expert testified the Appellee had a 32% permanent partial disability, while the Appellant's expert testified the Appellee had no permanent partial disability because he was at maximum medical improvement. The jury was permitted to find a disability percentage higher than the medical experts in the trial. Courts cannot be compelled to find that an amount of disability is "no greater than the highest medical evaluation and no less than the lowest medical evaluation" because that "would impermissibly shift the legal determination of 'disability' to physicians." *Gly Const. Co. v. Davis*, 60 Md. App. 602, 607 (1984); *see also Getson v.*

WM Bancorp, 346 Md. 48, 62 (1997) (citing R. Gilbert & R. Humphreys, *Maryland Workers' Compensation Handbook* § 7.2, at 135 (2d ed. 1988)) ("An evaluating physician provides the Commission with an assessment of medical impairment; the finder of fact, however, must determine the degree of disability."). Therefore, just because the jury's verdict was higher than the experts valuation does not, alone, make the verdict grossly excessive.

The County argued that the verdict shocks the conscience when considered from a monetary standpoint. The court argues that because the Appellee had a verdict of 63% permanent partial disability he was entitled to receive the equivalent of 315 weeks of compensation.[7] Based on the statutes, the Appellee would be paid $695.55 per week for 420 weeks, for a total of $292,129.60.[8] The County argues that this value of compensation is grossly excessive.

We do not hold that the trial court abused its discretion in upholding this compensation amount. The jury was tasked with determining the percentage of disability in a worker's compensation cause, which differentiates it from the lump sum the juries

[7] To determine the amount of compensation, the Workers' Compensation statute requires awarding compensation "in the proportion that the determined loss bears to 500 weeks." Md. Code, Lab. & Empl. § 9-627(k)(3). Therefore, 500 weeks times 63% is 315 weeks of compensation.

[8] Because the Appellee's award was for over 250 weeks of compensation, the Appellee was therefore entitled to an additional third of that duration, for a total of 420 weeks of compensation. Md. Code, Lab. & Empl. § 9-630(a)(1)(i). The amount paid per week was then two-thirds of the employee's average weekly wage, which was in total $1043,32, reduced to $695.55. Md. Code, Lab. & Empl. § 9-630(a)(1)(ii).

found in *Conklin*.[9] Once the jury determined that percentage, the statute took care of the amount of the award. The jury was not provided any instructions on the calculation of the award or that there would be additional compensation when the award was over 250 weeks. As a result, the jury's verdict does not include this downstream effect.

We do not hold that a finding by the jury of 63% permanent partial disability was grossly excessive and the trial court therefore did not abuse its discretion in denying the County's motion for a new trial.

CONCLUSION

Accordingly, we affirm the judgment of the Circuit Court for Prince George's County.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED; COSTS TO APPELLANT.

[9] Additionally, this payment would be awarded to the Appellee over 315 weeks, or just under six years, and provide compensation for the permanent injuries that he testified to at trial. This supports the purpose of permanent partial disability where the employee has an "actual incapacity to perform the tasks usually encountered in one's employment." *Queen*, 308 Md. 585–86.