

**IN THE COURT OF APPEALS 02/27/96**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 94-CA-00008 COA**

**KENNY MOORE D/B/A MOORE'S AUTO SERVICE CENTER**

**APPELLANT**

**v.**

**ARTHUR R. JACOBS**

**APPELLEE**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND  
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. MICHAEL RAY EUBANKS

COURT FROM WHICH APPEALED: MARION COUNTY CIRCUIT COURT

ATTORNEYS FOR APPELLANT:

JACK PARSONS

REBECCA C. TAYLOR

ATTORNEYS FOR APPELLEE:

JAMES A. COOK, JR.

NANCY STEEN

NATURE OF THE CASE: PERSONAL INJURY

TRIAL COURT DISPOSITION: JUDGMENT FOR APPELLEE

BEFORE THOMAS, P.J., COLEMAN, DIAZ, AND PAYNE, JJ.

DIAZ, J., FOR THE COURT:

After trial in the Marion County Circuit Court, a jury returned a \$30,000 verdict in favor of the Appellee, Arthur R. Jacobs (Jacobs). Feeling aggrieved, Kenny Moore, d/b/a Moore's Auto Service Center, (Moore) appeals to this Court asserting the following issues: (1) there was inadequate proof of damages for pain and suffering and (2) the medical bills introduced were misleading. Finding no reversible error, we affirm.

## FACTS

Jacobs, was employed by the Appellant Kenny Moore, d/b/a Moore's Auto Service. Jacobs was a general laborer and had worked for Moore for approximately ten years. He was always paid in cash, and at the time of the accident, he was earning about \$150.00 per week. Jacobs testified that on April 18, 1989, he was helping Moore and two other employees remove the hood off of a pick up truck. In the process, Jacobs was pushed back against the truck where he twisted his leg. One of the other employees called Jacobs' brother-in-law, who came, picked up Jacobs, and took him to the Hattiesburg Clinic. He was diagnosed with a broken leg. Jacobs was then admitted to Forrest General Hospital where he underwent surgery to insert a steel pin in his leg from his hip to his knee. Jacobs was in the hospital for a month and had other medical problems attended to at that time.

Moore testified that Jacobs used to work for him, but stopped coming to work in February 1989. Moore claims that he knows nothing about the injury to Jacobs' leg.

## DISCUSSION

Moore advances two arguments on appeal. His first argument is that the jury verdict was excessive because Jacobs did not complain of pain and suffering. His second contention is that the medical bills that were introduced were misleading because there were items on the bill that should have been blacked out because they were for medical services not pertaining to the injury at issue.

It is within the proper duties of the jury to determine the amount of damages to be awarded. *Harvey v. Wall*, 649 So. 2d 184, 187 (Miss. 1995). The award will not be set aside unless it is so unreasonable in amount, "as to strike mankind at first blush as being beyond all measure, unreasonable in amount and outrageous." *Harvey*, 649 So. 2d at 187 (citing *Rodgers v. Pascagoula Public Sch. Dist.*, 611 So. 2d 942, 945 (Miss. 1992)). In the face of contradictory testimony, the jury rendered a verdict in favor of Jacobs. Based on the facts and evidence in the record, we do not think that the verdict was unreasonable or outrageous in amount.

When a party introduces bills for examination by the court and testifies that the bills were incurred as a result of the injuries complained of, they become prima facie evidence that the bills were necessary and reasonable. *Moody v. RPM Pizza, Inc.*, 659 So. 2d 877, 885 (Miss. 1995); *Jackson v. Brumfield*, 458 So. 2d 736, 737 (Miss. 1984); see Miss. Code Ann. § 41-9-119 (Rev. 1993). It is then that the opposing party may rebut the necessity and reasonableness of the bills by proper evidence. *Moody*,

659 So. 2d at 885. The ultimate question is then for the jury to decide. *Id.*

The record indicates that the trial judge allowed the medical bills into evidence with irrelevant portions blacked out. The bills were introduced into evidence for the jury to consider. As stated earlier, the question is then up to the jury to decide whether the bills were necessary and reasonable. This was the proper procedure as outlined by statute and case law. We will not reverse a jury verdict unless it is against the overwhelming weight of the evidence and credible testimony. *Gifford v. Four-County Elec. Power Ass'n*, 615 So. 2d 1166, 1171 (Miss. 1992). The jury in this case assessed Jacobs' damages at \$30,000 despite contradictory trial testimony. After reviewing the evidence in the record, we do not think such decision was contrary to the greater weight of the evidence. Therefore, we affirm the judgment in favor of Jacobs.

**THE JUDGMENT OF THE MARION COUNTY CIRCUIT COURT AWARDED \$30,000 TO THE APPELLEE IS AFFIRMED. COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANT. STATUTORY DAMAGES PLUS INTEREST SHALL BE AWARDED.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, KING, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**