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## Sacramento jury awards record \$24.3 million to girl run over by dad's truck

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An Oregon girl whose truck-driver father accidentally ran her over with his big rig has won \$24.3 million in damages from the Portland company that a Sacramento judge found legally responsible for her injuries.

The personal-injury award handed down by a Superior Court jury last Friday to Diana Yuleidy Loza-Jimenez is the largest in Sacramento County history, according to the local bar association.

In a court-trial decision returned Dec. 14, Judge David W. Abbott said the firm that hired Simon Loza Mejia, Freeway Transport Inc., was liable for the girl's injuries.

"Defendant was listed on the shipper's bill of lading as the carrier," Abbott wrote. "Defendant insured the load. Defendant guaranteed delivery of the load."

Six years ago, Loza-Jimenez, now 14, joined her father, mother and other family members on a Thanksgiving long-haul trip from their home in Hermiston, Ore., to Bakersfield, where they visited relatives and picked up a load of produce to take back to Oregon.

On their way home, they stopped Nov. 27, 2004, for a break near Mount Shasta. When Loza Mejia got back inside the truck and pulled away, his daughter was still outside and got caught under the truck's rear wheels.

The girl suffered severe injuries to her entire lower body that will require an untold number of future surgeries, according to evidence presented in the lawsuit. Along with the prospect of hip replacement and other procedures, the injuries also will "affect her private functions" for the rest of her life, plaintiff's lawyer Robert A. Buccola said.

Before the damages phase of the trial, the judge ruled from the bench to exclude the jury from knowing it was the girl's father who accidentally drove over her. The plaintiff's lawyers argued it would have unduly prejudiced the panel.

Buccola, a veteran Sacramento trial lawyer who in 1998 won a \$9.3 million award for a client that stood until last Friday as the local personal injury record, said Monday the father-daughter relationship was "legally irrelevant."

"It was no different than if anybody else, a complete stranger, had been injured," Buccola said. "That was the correct legal ruling."

Defense attorney Gary C. Ottoson of Los Angeles said he did not know how or if the knowledge that Loza Mejia was Loza-Jimenez's father would have affected the jury.

"I have to believe it would have made some difference," Ottoson said.

Once the judge made his liability decision nearly three months ago, the case went to a jury to decide damages. On Friday, the 10-woman, two-man panel, following a 13-day trial, came back with its award. The money broke down to \$2.2 million for the girl's past medical expenses, including \$1.6 million in costs incurred at Shriners' Children's Hospital, plus \$2.1 million for future economic damages, \$8 million for past pain and mental suffering and \$12 million for such future noneconomic losses.

"We were thrilled to see that the jury appreciated the full magnitude of Diana's injuries," Buccola said. "She faces at least a dozen future surgeries and a life of serious disrepair. She's going to be going through the worst ahead of her."

Ottoson's defense team argued that Freeway Transport wasn't responsible in the case because the company only brokered her father's truck deal to haul the produce.

They claimed the defendant firm was not the actual long-haul carrier, even though they conceded that the Portland produce company that contracted for Loza Mejia's Bakersfield pickup – United Salad – is owned and operated by the same people who run Freeway Transport.

In a pre-trial brief filed last year, the defense lawyers said Loza-Jimenez was not a member of the general public eligible for protection under interstate transport regulations because her father took her along for the trip without Freeway Transport's knowledge.

"Loza and his wife were responsible for the well-being of their daughter and owed a duty to exercise reasonable care to protect, control and supervise her," the defense papers said. "This sad and unfortunate accident simply did not arise out of any duty owed by Freeway Transport."

Ottoson said Monday he asked the jury to limit the award to Loza-Jimenez to "something around \$8 million."

"I rather expected they'd come in probably above that, but not a whole lot – maybe in the \$12 million, \$14-15 million range," Ottoson said in an interview Monday.

"It was a very bad injury. It's a sad story for the girl," Ottoson said.

Buccola said he filed the case in Sacramento because Freeway Transport listed the capital as a licensed place of business. He said the girl's father was devastated by the accident. He now works as a mechanic on a dairy farm in Oregon, according to Buccola.

"The idea that a horrific injury like this occurs, that is otherwise preventable, and it happens to your own daughter – it's unimaginable," Buccola said.

Attorneys for both sides are negotiating a final disposition, but Ottoson said Freeway Transport is not planning to appeal the outcome.

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