

NOTICE
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2019 IL App (5th) 180272-U

NO. 5-18-0272

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

DANIEL MOSELEY,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	St. Clair County.
)	
v.)	No. 14-L-663
)	
JULIA YODER,)	Honorable
)	Stephen P. McGlynn,
Defendant-Appellee.)	Judge, presiding.

JUSTICE CHAPMAN delivered the judgment of the court.
Justices Moore and Barberis concurred in the judgment.

ORDER

¶ 1 *Held:* Where the trial court’s apportionment of 5% of the liability to Daniel Moseley was not contrary to the manifest weight of the evidence, we affirm. Where the trial court’s damages award was supported by the evidence admitted at trial, the damages awarded were not manifestly inadequate, proven damage elements were not omitted, and the award supports a relationship to the loss Daniel Moseley suffered, we affirm.

¶ 2 Plaintiff, Major Daniel Moseley (Moseley), sustained personal injuries in an accident in October 2012. Moseley was riding a bicycle when he was struck by a car driven by Julia Yoder (Yoder). After a bench trial, the parties submitted written closing arguments. The trial court entered its judgment finding that Yoder was negligent, but that Moseley was 5% contributorily negligent and awarded damages for Moseley’s personal

injuries. Moseley appeals arguing that the trial court's damages award was inadequate and that the court should not have found that he was contributorily negligent. For the reasons indicated in this order, we affirm the trial court's finding of contributory negligence and affirm the damages award.

¶ 3 BACKGROUND

¶ 4 The Accident

¶ 5 On October 23, 2012, Moseley, who was 31 years of age, was riding his bicycle just north of Mascoutah on Highway 4. Highway 4 is a two-lane Illinois highway with one lane in each direction. Moseley testified that he had been riding close to the white line on the east side of the northbound lane. He denied that he had been weaving within the northbound lane of Highway 4. Moseley testified that, while riding, he suddenly felt pain on the left side of his body, and his bicycle went out from under him. He fell to the gravel shoulder of the road on his left hand and hip.

¶ 6 Yoder testified that she was 16 years of age on the date of this accident. When she first noticed Moseley, he was riding close to the white line on the east side of the northbound lane. Yoder testified that Moseley then began to weave from that white line to as far as the middle of the northbound lane of traffic. Yoder attempted to pass Moseley, but then he moved to the left and hit her right-side mirror with the handlebars of his bicycle and he fell in the middle of the northbound lane of traffic. Yoder testified that at the time of impact, her car was completely in the southbound lane of traffic.

¶ 7 Alea Tucker (Tucker), an eyewitness, testified in an evidence deposition utilized at trial. She was driving southbound on Highway 4—the opposite direction as Moseley

and Yoder were traveling. Tucker did not see the actual collision, and so was not able to testify as to who hit whom. However, she informed the police that Moseley was weaving before the impact. Tucker testified that Moseley was weaving several inches into the northbound lane from the outside white line. She also confirmed that Yoder did move over as Yoder attempted to pass Moseley, but that oncoming traffic would have prevented Yoder from completely moving into the southbound lane as she testified that she did.

¶ 8 Anastasia Anger (Anger), another eyewitness, testified in an evidence deposition utilized at trial. Anger testified that she was driving northbound on Highway 4 directly behind Yoder. She did not see Yoder cross over to the southbound lane of traffic on Highway 4 before the impact. However, she testified that Yoder was driving in a safe manner before the collision.

¶ 9 **Injuries and Treatment**

¶ 10 Moseley was a United States Air Force family medicine physician. Immediately after the fall, he performed a self-trauma evaluation. He felt pain in his hip, wrist, and elbow. After he determined that the injuries were not life-threatening, he stood up. He declined an ambulance ride. Later that evening, Moseley's wife transported him to an area emergency room. While at the emergency room, he complained of left-sided wrist, elbow, and hip pain. The emergency room staff ordered x-rays and released Moseley with pain, anti-inflammatory, and muscle relaxant medications and with directions to follow up with his personal physician.

¶ 11 Dr. Richard Denby (Dr. Denby) was Moseley's family medicine physician. Dr. Denby testified that Moseley complained about left wrist, left elbow, left shoulder, and left hip pain. At the time, Moseley was most concerned about his wrist and shoulder, and thus Dr. Denby primarily focused on those areas. On the date of the initial examination, Moseley was unable to open his left hand without pain and was tender on the front of his left shoulder and on the bicep tendon at the left shoulder. Dr. Denby suspected that Moseley's wrist was simply sprained and so he ordered an MRI of the left wrist and prescribed occupational therapy. He also believed that Moseley had sprained his left shoulder and bicep tendon, and he prescribed home exercises. Dr. Denby next saw Moseley in January 2013. He testified that the amount of bruising and swelling of Moseley's left hip had affected his gait and stance. The MRI of the wrist revealed a ligament sprain. Although the injury was only a sprain, Dr. Denby testified that wrist sprains were quite difficult to heal, and that Moseley required additional occupational therapy for the wrist injury. Moseley complained of continued left shoulder pain and remained unable to obtain full extension of his left elbow. Dr. Denby also prescribed physical therapy to treat Moseley's hip in January 2013. From late January 2013 until mid-June 2013, Moseley had 16 physical therapy sessions to treat his hip. Also in January 2013, Moseley was examined and treated with osteopathic manipulative therapy in his mid and lower back by Sarah E. Wilson, D.O., with the objective of treating his hip pain. In March 2013, Dr. Denby prescribed additional occupational therapy for the wrist. In October 2013, Moseley returned to Dr. Denby with complaints of continued hip pain. Moseley claimed that the physical therapy had not helped. Dr. Denby provided Moseley

with a corticosteroid injection into the hip. While Moseley was under Dr. Denby's care, Dr. Denby injected his hip three times and his shoulder one time.

¶ 12 Moseley saw different providers after he transferred to a Texas Air Force base. The medical records were admitted into evidence and Moseley testified about the care he received. In June 2014, Moseley was seen by Jason Baker, a physician assistant. At that time he complained of chronic left hip pain. Baker prescribed physical therapy. Moseley returned in October 2014 and was seen by Dr. Aasif Mirza, a family medicine physician. Moseley continued to complain of hip pain and was referred to a pain clinic, where he was seen by Lucy Price, a physician assistant. Moseley complained that he suffered from daily left hip pain and characterized the pain as "throbbing, stabbing, and burning." Price sent Moseley to have a left hip injection with fluoroscopy. That injection was performed by Dr. Dean Harry Hommer, a physiatrist, in November 2014. In September 2015, Moseley saw another physiatrist, Dr. George Kum-Nji, who performed a bursa injection to the outside area of his hip. In February 2016, Moseley was seen by Dr. Andrew Feldman, an anesthesiologist with a board certification in pain medicine. Dr. Feldman performed an ultrasound-guided nerve block in his hip. In late September 2016, Dr. Karl Lautenschlager, an anesthesiologist, performed an in-office corticosteroid injection of Moseley's left hip. Then in late October 2016, Moseley was seen by Kenneth Rivera, a physician assistant. Moseley complained of left shoulder and hip pain. He described his shoulder pain as constant. Rivera's findings from this examination and from a recently ordered MRI did not detect an anatomic hip abnormality that could be surgically fixed. Rivera's treatment plan for Moseley's hip was to continue with conservative hip therapy.

Rivera also ordered a left shoulder MRI that revealed fluid within an area under his deltoid muscle in the shoulder joint, tendonitis, a possible injury to the labrum (SLAP), as well as mild osteoarthritis of the acromioclavicular joint. In December 2016, Moseley consulted with Dr. Christopher Roach, an orthopedic surgeon, about his left shoulder pain and whether surgery was required. Upon examination, Dr. Roach found that Moseley's shoulder injury was consistent with a SLAP lesion and a tear in the tendon that connects the biceps muscle to the shoulder, as opposed to a labrum tear (SLAP). Dr. Roach suggested that shoulder surgery could alleviate and repair the injury.

¶ 13 Dr. Denby testified in an evidence deposition utilized at trial. He testified that it was his opinion within a reasonable degree of medical certainty that the injuries Moseley claimed were directly caused by the collision. He based this opinion on the fact that he was Moseley's coworker before and after the collision and testified that Moseley did not previously have difficulty walking. He also opined that Moseley's injuries would result in permanent disability, function, and pain, and that Moseley would need additional medical treatment.

¶ 14 Moseley testified that he had received seven hip injections in the five years after the accident, and that his hip had improved in that he no longer needed to use a cane for support when he walked. However, he continued to suffer from neuropathy in the left hip and thigh which he described as a pain and/or numbness and sensitivity. He also testified to flare-ups of hip bursitis. An MRI of his hip revealed a possible labral tear. Dr. Moseley testified that to treat his chronic hip injury he would need two hip injections each year for the rest of his life. In describing his hip pain for the 12 months preceding the trial,

Moseley testified that his daily hip pain was typically a 3 or 4 on a scale where a 10 is the highest level. If activity was increased, then his pain would increase to between a 6 and an 8 on that same scale. Prolonged sitting or standing increased the hip pain, as well as any impact exercise. As a result, Moseley testified that he could no longer play recreational basketball and flag football, and that he had difficulty in running for fitness.

¶ 15 Moseley testified that over the past five years, his elbow and wrist had vastly improved. However, in the preceding 12 months, his shoulder had gotten worse. Initially after the collision, Moseley explained that his upper body focus was on the elbow and wrist, but as the elbow and wrist healed, the shoulder pain and limitations became more predominant. He testified that diagnostic studies of his shoulder revealed a labral tear otherwise referred to as a SLAP tear.

¶ 16 Dr. Christopher Roach, an orthopedic surgeon, testified in an evidence deposition utilized at trial. He examined Moseley four years after the accident on a surgical consult. Dr. Roach confirmed that Moseley had a possible shoulder labral tear (SLAP) and inflammation of his rotator cuff tendon. Dr. Roach testified that shoulder surgery could be beneficial to repair Moseley's shoulder injury. In Dr. Roach's opinion, Moseley's shoulder SLAP tear was consistent with a traumatic event. However, he also testified that Moseley's hip bursitis was not the result of trauma and was more likely caused by degeneration through repetitive use.

¶ 17 Dr. Feldman testified that the history Moseley reported connected the accident with his hip injuries, and that pain of this type can last a long time. He testified that while hip bursitis can be due to overuse, trauma to the tendons in the area of the bursa could

result in inflammation. When pressed on cross-examination, Dr. Feldman acknowledged that he would defer to Dr. Roach's opinions about the causes of hip bursitis.

¶ 18 Moseley's wife Tabitha testified that her husband's shoulder had deteriorated over the past year, and that his hip had been painful since the accident. Although he was a very good father to their five children, Tabitha testified that his injuries limited his play activities with the children.

¶ 19 At trial, Moseley introduced his medical bills for all examinations, diagnostic tests, and treatment. He did not introduce evidence of the cost of any future medical treatment he may require.

¶ 20 **Judgment**

¶ 21 After reviewing the evidence, the trial court entered judgment in favor of Moseley on April 10, 2018. The court concluded that Yoder was 95% at fault, and that Moseley was 5% contributorily at fault. The trial court found that Moseley was entitled to the following damages: \$15,501.12 for past medical expenses; \$30,000 for past pain and suffering; \$15,000 for future pain and suffering; \$10,000 for past disability and loss of normal life; and \$5000 for future disability and loss of normal life. After subtraction of \$3775.05 representing Moseley's 5% of contributory fault, the trial court entered final judgment in Moseley's favor in the amount of \$71,726.07.

¶ 22 Moseley timely appeals from the trial court's judgment.

¶ 23 **ANALYSIS**

¶ 24 On appeal, Moseley asks this court to grant him a new trial on liability and damages on the bases that the trial court's judgment that Moseley was 5% contributorily

negligent and the amount of damages awarded was contrary to the manifest weight of the evidence.

¶ 25 Because the trial judge was in a superior position to assess each witness's credibility and the weight given to the testimony, we will not disturb a judgment following a bench trial unless the trial court's judgment is clearly contrary to the manifest weight of the evidence. *Jackson v. Bowers*, 314 Ill. App. 3d 813, 818, 731 N.E.2d 1252, 1257 (2000). A judgment is contrary to the manifest weight of the evidence if a conclusion opposite to that reached by the trial judge is clear. *Comm v. Goodman*, 6 Ill. App. 3d 847, 853, 286 N.E.2d 758, 763 (1972). "When contradictory testimony that could support conflicting conclusions is given at a bench trial, an appellate court will not disturb the trial court's factual findings based on that testimony unless a contrary finding is clearly apparent." *Chicago's Pizza, Inc. v. Chicago's Pizza Franchise Ltd. USA*, 384 Ill. App. 3d 849, 859, 893 N.E.2d 981, 991 (2008).

¶ 26 This case was unusual in that the case was tried before Judge Robert P. LeChien, but before he could enter judgment, he died. Thereafter, Judge Stephen P. McGlynn was appointed to this case and he reviewed the trial transcripts and exhibits. Judge McGlynn did not benefit from watching the witnesses testify.

¶ 27 Contributory Negligence

¶ 28 We have reviewed the deposition and trial testimony of Moseley, Yoder, Tucker, and Anger. Tucker was an independent witness to the accident and was unfamiliar with Moseley or Yoder. Moseley did not see Yoder hit him but surmises that Yoder attempted to pass him within her northbound lane when there was a steady presence of traffic within

the southbound lane. Both Yoder and Tucker testified that Moseley had been swerving or weaving prior to the collision. Tucker testified that she had been concerned for Moseley's welfare because she believed he was riding his bicycle in an unsafe manner. She stated that his driving was unsafe because he was swerving between the shoulder and the center of the northbound lane of traffic. Furthermore, Tucker testified that when Yoder was attempting to pass Moseley, he swerved directly into Yoder's vehicle. Tucker testified that prior to the collision she observed Yoder driving in a safe manner within her northbound lane. When Yoder began to pass Moseley, Tucker saw her merging over to Yoder's left, away from Moseley's bicycle. Anger also testified that Yoder was driving in a safe manner at the time of the collision, and that Yoder was not swerving or driving erratically. There was no eyewitness testimony that Yoder had been driving in an unsafe manner.

¶ 29 Moseley argues that the 5% contributory negligence apportionment was in error because Yoder clearly violated section 11-703(d) of the Illinois Vehicle Code, which provides:

“The operator of a motor vehicle overtaking a bicycle or individual proceeding in the same direction on a highway shall leave a safe distance, but not less than 3 feet, when passing the bicycle or individual and shall maintain that distance until safely past the overtaken bicycle or individual.” 625 ILCS 5/11-703(d) (West 2010).

Moseley provides no evidence that Yoder violated this rule.

¶ 30 We conclude that the trial court's finding that Moseley was 5% contributorily negligent is not contrary to the manifest weight of the evidence. Testimony of the eyewitnesses established that Yoder was driving safely within the northbound lane of

Highway 4 and that Moseley was swerving within the northbound lane just before colliding with Yoder's vehicle. Accordingly, we agree that Moseley bears some fault for this accident and affirm the trial court's ruling on the apportionment of negligence.

¶ 31 Damages

¶ 32 *Medical Expenses*

¶ 33 A court of review will not order a new trial on damages unless (1) the damages awarded are manifestly inadequate, (2) proven elements of damages were obviously not awarded, or (3) the amount awarded bears no relationship to the loss suffered by the injured party. *Stanford v. City of Flora*, 2018 IL App (5th) 160115, ¶ 27, 112 N.E.3d 136 (citing *Walters v. Yellow Cab Co.*, 273 Ill. App. 3d 729, 740-41, 653 N.E.2d 785, 793 (1995)). “ ‘The determination of the amount of damages is a function reserved for the trier of fact, and a reviewing court will not lightly substitute its opinion for the judgment rendered in the trial court.’ ” *Hoffman v. Northeast Illinois Regional Commuter R.R. Corp.*, 2017 IL App (1st) 170537, ¶ 54, 99 N.E.3d 16 (quoting *Kindernay v. Hillsboro Area Hospital*, 366 Ill. App. 3d 559, 572, 851 N.E.2d 866, 877 (2006)). The reviewing court must consider the record in its entirety in an appeal of the adequacy of the damages awarded. *Stanford*, 2018 IL App (5th) 160115, ¶ 27 (citing *Hastings v. Gullede*, 272 Ill. App. 3d 861, 864, 651 N.E.2d 778, 781 (1995)).

¶ 34 Here, the trial court found that as a result of the accident, Moseley suffered injuries to his hip, wrist, and shoulder, and that the shoulder and hip injuries were debilitating and lasted long after the original surface abrasions and bruises had healed. The court found that Dr. Denby believed Moseley had injuries to his wrist, shoulder, and

hip, but that he provided no testimony within a reasonable degree of medical certainty that the injuries were permanent. The court determined that Dr. Denby could not rationally explain why Moseley continued to have ongoing hip issues. Dr. Roach disputed Dr. Denby's belief that Moseley's chronic hip condition resulted from the accident and emphatically stated that Moseley's hip bursitis was not the result of trauma. The trial court did not find that shoulder surgery was warranted. Overall, the court found the medical records to be relevant in that there was a waxing and waning of physical symptoms and complaints over the years. The medical records, coupled with the testimony of the treating physicians, made it difficult to determine "what conditions of ill-being Dr. Moseley suffered six months after the accident." The trial court also noted that the treating physicians were quite "elusive" in their testimony about whether the accident caused the injuries. Although the court found that Moseley's shoulder and hip were injured in this accident, the court stated that after the passage of six months, the documentary medical evidence made it difficult to determine if the accident was the cause of the chronic allegations of pain. The court concluded that "some" of Moseley's hip pain was due to the accident, and that the accident caused a shoulder strain, but that "there is insufficient evidence to find any further surgery is indicated" because the shoulder condition was "relatively minor."

¶ 35 The parties do not dispute the damages awarded by the trial court for Moseley's past medical bills—\$15,501.12. Medical bills in that amount were entered into evidence. However, Moseley chose not to enter any evidence of future medical bills. Despite the

lack of evidence, Moseley challenges the trial court's zero award for future medical damages.

¶ 36 An award of future medical damages is not recoverable by the injured party unless the damages “are reasonably certain to follow.” *Diaz v. Legat Architects, Inc.*, 397 Ill. App. 3d 13, 45, 920 N.E.2d 582, 609 (2009) (citing *Terracina v. Castelli*, 80 Ill. App. 3d 475, 480, 400 N.E.2d 27, 31 (1979)). “Evidence as to damages which is speculative, remote or based upon mere probability is improper.” *Id.* (citing *Terracina*, 80 Ill. App. 3d at 480). To establish the necessity and the monetary amount required for future medical damages, “ “[e]xpert testimony is *** required as evidence of the certainty of the need and as to the reasonable value of the services to be rendered.” ’ ” *Id.* (quoting *Biehler v. White Metal Rolling & Stamping Corp.*, 30 Ill. App. 3d 435, 445, 333 N.E.2d 716, 724 (1975), quoting 22 Am. Jur. 2d *Damages* § 312 (1965)).

¶ 37 We disagree with the trial court's conclusion that Dr. Roach ruled out future shoulder surgery, as he had testified to the contrary—that it could alleviate and repair the injury. However, Moseley's attorney failed to ask Dr. Roach for the cost or any other details of future surgery. Consequently, there was no expert evidence upon which the trial court could have determined a future damages award for the shoulder.

¶ 38 With respect to the hip, Moseley is correct that Dr. Denby testified generally that his hip injuries would require additional medical treatment. While the trial court could have inferred that the additional medical treatment required was the hip injections, there was no testimony by the treating providers outlining what type of injections would be required, the frequency of the injections, or the future costs. Moseley argues that his own

testimony should suffice as expert opinion on the issue because he is a practicing physician. We disagree. Dr. Denby and Moseley are family medicine physicians. Moseley recently received additional training and education and is now an anesthesiologist. Dr. Roach is an orthopedic surgeon and he testified unequivocally that Moseley's chronic hip bursitis was not caused by the collision. We find that Dr. Roach's testimony on this subject had more medical credibility than that of Dr. Denby because of Dr. Roach's orthopedic surgical specialty. Additionally, Moseley's testimony that he would require two hip injections each year for the rest of his life could easily have been discounted by the trial court as self-serving. If evidence is contradicted or is based on the subjective testimony of the injured party, the trier of fact may opt to discount the opinions. *Stift v. Lizzadro*, 362 Ill. App. 3d 1019, 1029, 841 N.E.2d 126, 135 (2005). Even if the trial court accepted Moseley's self-diagnosis for future medical care, there was no testimony as to the type of injection or the associated costs. Furthermore, Dr. Feldman, an anesthesiologist with board certification in pain management, deferred to Dr. Roach's opinions due to his orthopedic specialty.

¶ 39 Based upon all evidence in the record, we agree with the trial court's assessment that no future medical damages were appropriate.

¶ 40 *Pain and Suffering*

¶ 41 We next turn to the damages the trial court awarded for past and future pain and suffering. "Although we recognize there is no precise formula for determining whether a monetary award is fair and reasonable, the following factors should be considered: (1) the extent of the injuries suffered and the degree of the permanency of the injuries, (2) the

plaintiff's age, (3) the possibility of difficulties in the future, (4) the amount of medical expenses incurred, and (5) the restrictions upon the plaintiff's life as a result of the injuries suffered." *Stanford*, 2018 IL App (5th) 160115, ¶ 27 (citing *Anderson v. Zamir*, 402 Ill. App. 3d 362, 364-65, 931 N.E.2d 697, 699-700 (2010)).

¶ 42 The trial court awarded Moseley damages for past and future pain and suffering. Because the trial court concluded that Moseley established those two categories of damages and awards were made for each category, one of Moseley's arguments for awarding a new trial on damages—that a proven element of damages was obviously not awarded—does not have merit. *Id.* (citing *Walters*, 273 Ill. App. 3d at 740-41). We turn to the remaining issues: whether the damages awarded are manifestly inadequate or whether the amount awarded bears no relationship to the loss suffered by the injured party. *Id.*

¶ 43 In this case, Moseley and his wife Tabitha both testified about the limitations he had experienced postaccident. Moseley testified that he had received formal exemptions from the Air Force annual physical fitness mandates and that because of his profession, he was not likely in danger of having an exemption request denied. He had difficulty with running and could not participate in recreational basketball and flag football. He claimed that the pain was always present in his shoulder and hip and that his pain worsened with activity. Moseley's wife Tabitha testified that he was still able to play with their children with some exceptions. Dr. Denby testified generally about Moseley's chronic conditions and stated that he believed the conditions must be connected to the accident because Moseley did not have this pain and the limitation issues before the accident. Dr. Denby's

basis for this opinion was that he had known and worked with Moseley before and after the accident.

¶ 44 We are not able to find that the amounts awarded by the trial court were manifestly inadequate. We have reviewed Moseley's medical records and confirm the difficulties referenced by the trial court in determining the duration and cause of Moseley's pain and physical limitations. In June 2013 at Moseley's final physical therapy session in Illinois for his hip, he had full range of motion and he rated his pain level at a 2 out of 10. Physical therapy was discontinued. In October 2013, Moseley informed Dr. Denby that physical therapy had been ineffective. Throughout the time Moseley was in Texas, he was training for and eventually became an anesthesiologist. There is nothing in the record evidencing that his educational progress was slowed by his stated chronic shoulder and hip pain. Moseley was prescribed physical therapy for his hip, but no Texas physical therapy records are in the record on appeal. Moseley treated with a number of providers and was subjected to repeated orthopedic and neurological tests, most of which were negative. The hip injections were reported as being for the treatment of hip bursitis, the condition that Dr. Roach, the orthopedic surgeon, rejected as being causally connected to trauma. Moseley's pain levels varied from 3 or 4 out of 10 at its best to 6 or 7 out of 10 at its worst.

¶ 45 Reviewing the record in its entirety, we find no basis to vacate the trial court's awarded damages for pain and suffering. We find nothing in the record that serves to dispute the trial court's award. We find that Moseley's medical history and postaccident evidence did not sufficiently establish a debilitating hip condition connected to this

accident. While he may have been in severe pain at times, any medical connection of his chronic condition to this accident was simply not present. In addition, Moseley did not complain about shoulder pain for approximately three years after the initial postaccident complaints. Dr. Roach did conclude that his shoulder injury was the result of trauma; however, the gap in time without reference to ongoing shoulder pain and/or limitations poses a problem in connecting this specific accident to the shoulder injury. If the accident caused Moseley's SLAP tear, the medical records and the provider testimony do not support a conclusion that he was in constant shoulder pain from the date of the accident. We do not find that the pain and suffering damages are inadequate or bear no relationship to the losses Moseley suffered. *Stanford*, 2018 IL App (5th) 160115, ¶ 27 (citing *Walters*, 273 Ill. App. 3d at 740-41).

¶ 46

Disability

¶ 47 The trial court also awarded Moseley both past and future disability damages, and so we conclude that the trial court did not omit a category of damages that had been proven. *Id.* (citing *Walters*, 273 Ill. App. 3d at 740-41). We only consider whether those two categories of damages are inadequate or bear no relationship to the losses Moseley suffered. Moseley provided no testimony or evidence about lost time from work or any lost promotions or opportunities to which he would have been entitled. The only disability-related testimony involved his difficulty with running and recreational sports. Without adequate evidence of an extensive disability, we are not able to find that the disability award was inadequate or that the disability award bore no relationship to the loss. *Id.*

¶ 48

CONCLUSION

¶ 49 For the reasons stated in this order, we affirm the St. Clair County circuit court's finding of contributory negligence and affirm its award of damages.

¶ 50 Affirmed.