

STATE OF MICHIGAN
COURT OF APPEALS

TERI L. MITCHELL,

Plaintiff-Appellant,

v

MR. MECHANIC AUTO SERVICE
CENTER, INC.,

Defendant-Appellee.

UNPUBLISHED

April 15, 1997

No. 187779

Oakland Circuit Court

LC No. 92-427622

Before: Young, P.J., and Gribbs and S. J. Latreille,* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order denying her motion for a new trial and/or judgment notwithstanding the verdict. We affirm.

Plaintiff filed this negligence action against defendant seeking damages arising out of an automobile accident allegedly caused by defendant's negligent repair of her vehicle. The accident occurred on January 18, 1992 when another vehicle struck plaintiff's car from behind, seriously injuring plaintiff. Plaintiff's theory of the case was that because defendant failed to properly repair her car, it had stalled on the freeway and then failed to start before she was hit. Defendant had repaired plaintiff's car three days prior to the accident.

Plaintiff argues that the trial court erred in denying her motion for a new trial and/or judgment notwithstanding the verdict because the jury's verdict was against the great weight of the evidence.¹ She contends that defendant did not present any credible evidence that her vehicle was properly repaired. We disagree.

Regardless of whether plaintiff's motion is viewed as a new trial motion or a motion for judgment notwithstanding the verdict, this Court reviews the trial court's decision for an abuse of discretion. *Severn v Sperry Corp*, 212 Mich App 406, 412; 538 NW2d 50 (1995).

* Circuit judge, sitting on the Court of Appeals by assignment.

At trial, the parties presented conflicting expert testimony on the issue of whether defendant breached its duty by negligently performing the repairs on plaintiff's vehicle. We find that the trial court did not abuse its discretion in denying plaintiff's motion for a new trial because there was conflicting expert testimony on the issue of whether the vehicle was repaired properly, and there is nothing in the record indicating that the testimony of defendant's expert was so lacking in credibility that a new trial should have been granted. *Scott v Illinois Tool Works, Inc.*, 217 Mich App 35, 41; 550 NW2d 809 (1996).

Likewise, we find no abuse of discretion in the trial court's decision if plaintiff's motion is viewed as a request for a judgment notwithstanding the verdict. A judgment notwithstanding the verdict is not appropriate where reasonable jurors could have reached different conclusions. *Pakideh v Franklin Commercial Mortgage Group Inc.*, 213 Mich App 636, 639; 540 NW2d 777 (1995). Here, reasonable jurors could have accepted the testimony of either expert. Therefore, it would have been improper for the trial court to have substituted its own judgment for that of the jury. *Id.*

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Roman S. Gibbs

/s/ Stanley J. Latreille

¹ Although the title of her motion suggests that plaintiff requested both a new trial and a judgment notwithstanding the verdict, plaintiff did not ask the trial court to grant her a new trial. Instead, plaintiff only argued that she was entitled to judgment notwithstanding the verdict.