

8.44 PERSONAL PROPERTY (Approved 3/75)

A. General

If you ultimately find the plaintiff's personal property was damaged as a result of the defendant's negligence, plaintiff would be entitled to your verdict. Plaintiff would be entitled to money damages from the defendant for the loss suffered.

The measure of damages for such loss is the difference between the market value of the personal property before and the market value after the damage occurred.

If the personal property has no market value in its damaged condition, the measure of damages is the difference between the market value of the personal property before the damage occurred and its salvage value in its damaged condition. If the personal property is not substantially damaged and it can be repaired at a cost less than the difference between its market value before and its market value after the damage occurred the plaintiff's damages would be limited to the cost of the repairs.

Cases:

Jones v. Lahn, 1 N.J. 358, 362 (1949); *Douches v. Royal*, 1 N.J. Super. 45, 47 (App. Div. 1948); *Associated Metals & Minerals Corp. v. Dixon Chemical & Research, Inc.*, 69 N.J. Super. 305, 314 (Ch. Div. 1961); *Hintz v. Roberts*, 98 N.J.L. 768, 770 (E. & A. 1923).

NOTE TO JUDGE

(1) The cost of repairs is evidential on the issue of the difference in value of goods before and after injury, but the cost of such repairs must neither exceed the loss in market value due to the damage nor the automobile's market value immediately before the damage. *Jones v. Lahn*, 1 *N.J.* 358, 362 (1949) damage to tractor-trailer; *Bransley v. Goodman*, 40 *N.J. Super.* 472, 476 (App. Div. 1956) damage to furniture; *Nixon v. Lawhon*, 32 *N.J. Super.* 351, 354 (App. Div. 1954) damage to automobile - cost of car, furnishings and repairs are elements of value; *Douches v. Royal*, 1 *N.J. Super.* 45, 47 (App. Div. 1948) damage to automobile.

(2) Where the automobile was damaged and then sold by plaintiff without any repairs having been made thereon, the measure of damages is the difference between the value of the automobile before it was damaged and the price which was received for it from the purchase (assuming the sale price is not less than the automobile's worth or value in its damaged condition). *Van Sciver v. Public Service Railway Co.*, 96 *N.J.L.* 13 (Sup. Ct. 1921).

B. Evidence as to Value

In determining the amount of money, if any, to be awarded to plaintiff (owner) for the damage to his/her personal property, you may consider, but are not bound by, the testimony of the plaintiff (owner) as to his/her opinion of the value of the property before and after it was damaged.

Cases:

Rodgers v. Reid Oldsmobile, Inc., 58 *N.J. Super.* 375, 385 (App. Div. 1959); *Nixon v. Lawhon*, 32 *N.J. Super.* 351, 356 (App. Div. 1954).

NOTE TO JUDGE

The owner of personal property may be permitted to testify as to its value before and after damage where such personal property is “of a common class or in general daily use,” in the court’s discretion, but not where the owner has not the slightest knowledge of such value. *Rodgers v. Reid Oldsmobile, Inc.*, and *Nixon v. Lawhon, supra*.

These rules for measuring damages are subordinate to the ultimate aim of making good the injury done or loss suffered. “The answer rests in good sense rather than in a mechanical application of a single formula.” *N.J. Power and Light Co. v. Mabee*, 41 N.J. 439, 441 (1964).

See “Damages,” *McCormick* (West Pub. Co. 1969) p. 470 *et seq.*, for full discussion of general subject of damages for personal property losses.

C. Incidental Damages as a Result of Motor Vehicle Damages

A plaintiff who is entitled to a verdict for property damage to a motor vehicle is also entitled to recover for necessary and reasonable out-of-pocket expenses for towing and storage of the vehicle and rental cost of a substitute vehicle whether the property damage to plaintiff’s car is partial or total.

As to any of the out-of-pocket expenses, the determination as to necessity for same and the reasonableness of both the cost thereof and the period of time required is for you, the jury, to determine in the light of all the circumstances in which plaintiff found himself/herself following the accident.

Cases:

Hintz v. Roberts, 98 N.J.L. 768, 771 (E. & A. 1923); *Bartlett v. Garrett*, 130 N.J. Super. 193 (Co. Dist. Ct. 1974).