

another vehicle to strike Stacey's car. The complaint further alleged that as a direct and proximate result of Joyce's negligence, Stacey's unborn baby was fatally injured. A jury trial was held on October 6 and 7, 2009, at which the following testimony and evidence was adduced. Anita Leach testified that she is Stacey's mother and that Stacey had changed since the accident. Anita explained that Stacey had always been outgoing and friendly and at one time had socialized with many friends and maintained several jobs. However, Anita testified that since the accident which resulted in the loss of Stacey's unborn baby, Stacey is an introvert who rarely goes out anymore.

Stacey testified that she is 31 years old and was 28 at the time of the accident. In November 2006, Stacey discovered that she was pregnant and was excited at the news because she had employment, insurance, and a two-bedroom residence. Stacey testified that her due date was July 15, 2007, and she had three or four doctor visits before the accident. Two ultrasounds were performed during these doctor visits, which showed the baby *in utero*. Stacey denied having any health issues while pregnant, nor were any problems detected with the baby prior to the accident.

Stacey testified that at the time of the accident she was nearly 15 weeks pregnant. After the accident, Stacey was transported to Barnes Hospital, where she learned that her baby had died. Stacey testified that her source of income is now social security disability and that she moved back in with her parents in July 2007. Stacey expressed the difficulty of dealing with the loss of her baby, describing in detail the many plans she once had that are now replaced with voids. Stacey testified on cross-examination that she goes out with her current boyfriend about once per month. Joyce took the stand, admitted to liability for the accident and for Stacey's miscarriage, and apologized to Stacey. The jury returned its verdict with an assessment of damages in the amount of \$22,300. Stacey filed a posttrial motion for a new trial on November 3, 2009, which the trial court denied on May 18, 2010. Stacey filed

a timely notice of appeal

ANALYSIS

Stacey's sole issue on appeal is whether the trial court erred by denying her posttrial motion for a new trial, based on Stacey's claim that the jury verdict of damages in the amount of \$22,300 for the loss of Stacey's unborn child was inadequate as a matter of law. "Generally, a decision as to whether to grant a new trial is a matter left to the sound discretion of the court, and the court's determination will not be overturned on review absent an abuse of discretion." *Wade v. Rich*, 249 Ill. App. 3d 581, 587 (1993). "However, a jury's verdict may be set aside and a new trial ordered where the amount of damages is palpably inadequate or against the manifest weight of the evidence or where the jury has clearly disregarded a proven element of damages." *Id.*

"The issue of damages is particularly within the discretion of the jury[,] and courts are reluctant to interfere with the jury's exercise of its discretion." *Chrysler v. Darnall*, 238 Ill. App. 3d 673, 678 (1992). Upon a finding of liability under the Wrongful Death Act, the jury must "fix the amount of money which will reasonably and fairly compensate the lineal next of kin *** for the pecuniary loss proved by the evidence." Illinois Pattern Jury Instructions, Civil, No. 31.01(a) (Supp. 2009) (hereinafter, IPI Civil (Supp. 2009) No. ____). This may include the "loss of money, benefits, goods, services, and society." IPI Civil (Supp. 2009) No. 31.01(a). "Where a decedent leaves a lineal next of kin, the law recognizes a presumption that the lineal next of kin has sustained some substantial pecuniary loss by reason of the loss of the decedent's society." IPI Civil (Supp. 2009) No. 31.01(a).

The jury is instructed in a wrongful-death case that when it is asked to place a monetary value on the loss of "society," this means "the mutual benefits that each family member receives from the other's continued existence, including love, affection, care,

attention, companionship, comfort, guidance, and protection." Illinois Pattern Jury Instructions, Civil, No. 31.11 (2006). "In a variety of contexts, courts of review in this State have held that damages for loss of society are difficult to estimate exactly and no standard of value applies; rather, their assessment is committed to the sound discretion of the jury as to what is reasonable under the circumstances of any given case guided by [its] observations, experience, and sense of fairness." *Patch v. Glover*, 248 Ill. App. 3d 562, 568 (1993).

Stacey argues that the damages awarded do not comport with verdicts in similar cases within the State of Illinois. However, it is impossible to measure the propriety of damages awards under the Wrongful Death Act by comparison with other wrongful-death cases, as Stacey requests, because the propriety of those awards is not subject to exact mathematical computation and cannot be measured by comparison with other verdicts. *Barry v. Owens-Corning Fiberglas Corp.*, 282 Ill. App. 3d 199, 207 (1996). As our colleagues in the First District explained:

"Reviewing courts rarely disturb jury awards. For good reason. We are in no better position to judge the appropriate amount of a verdict than are the 12 people who see and hear the arguments and the evidence. They use their combined wisdom and experience to reach fair and reasonable judgments. We are neither trained nor equipped to second-guess those judgments about the pain and suffering and familial losses incurred by other human beings. To pretend otherwise would be sheer hubris."

Id.

Here, we cannot say that the \$22,300 award is manifestly inadequate. There is no concrete evidence in the record of any specific loss of money or other economic loss resulting from the death of Stacey's unborn child. Along with the evidence of Stacey's feelings of grief and loss, the jury was presented with evidence regarding Stacey's marital status, living arrangements, income, and station in life. It is not within our province to

substitute our judgment for that of the jury to determine the monetary value of the loss of society in this case. For these reasons, we cannot find that the damages awarded by the jury are manifestly inadequate or contrary to the evidence.

CONCLUSION

For the foregoing reasons, we affirm the order of the circuit court of St. Clair County that denied Stacey's motion for a new trial on the grounds that the jury verdict in the amount of \$22,300 was inadequate as a matter of law.

Affirmed.