

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DOUGLAS LEE MILLER,	§	
	§	No. 307, 2003
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware in and for
v.	§	Sussex County
	§	
STATE FARM MUTUAL	§	C. A. No. 02C-07-019
AUTOMOBILE INSURANCE	§	
COMPANY,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	
and	§	
	§	
JACK F. COVERDALE,	§	
	§	
Defendant Below,	§	
Appellee,	§	
	§	
and	§	
	§	
THE ESTATE OF BLANCHE E.	§	
MILLER,	§	
	§	
Defendant Below	§	
Appellee.	§	

Submitted: December 16, 2003
Decided: January 27, 2004

Before **VEASEY**, Chief Justice, **STEELE** and **JACOBS**, Justices.

ORDER

This 27th day of January, 2004, upon consideration of the briefs of the parties, it appears to the Court that:

(1) Douglas Miller appeals from a Superior Court judgment awarding him zero (\$0) damages in a Superior Court wrongful death action arising from the death of his mother, in which liability was conceded. On appeal Miller claims that the trial court erred by awarding him no (\$0) damages, in the face of uncontroverted evidence that his mother's wrongful death had caused him mental anguish.

(2) On November 11, 2000, Miller's mother, Blanche Miller, died as a result of injuries she suffered in an automobile accident. Blanche Miller was survived by two children, Douglas Miller, the appellant, and Jack F. Coverdale, who is an appellee in this action. Blanche Miller's sons filed an action for wrongful death¹ and her Estate filed a survival action.² Liability was admitted, and State Farm offered to settle the cases for \$100,000 (the policy limit). However, because no agreement could be reached as to how the policy proceeds would be divided, State Farm filed an interpleader action in the Superior Court, tendering the \$100,000 policy limits into the court.

¹ See 10 Del. C. §§ 3721-3725.

² See 10 Del. C. § 3701.

(3) Following a bench trial, the trial court awarded \$20,000 to the Miller Estate, \$80,000 to Coverdale, and nothing (\$0) to Miller. No party contests the propriety of the \$20,000 allocation to the Estate. Miller, however contests the court's allocation of the remaining proceeds as between his brother (\$80,000) and himself (\$0).

(4) The primary focus of the trial was on the mental anguish claims of Coverdale and Miller. Coverdale had maintained a good relationship with his mother, even though he had moved to Texas twenty-eight years before his mother's death. Miller also had a good relationship with his mother until eight years before she died, when Miller's daughter committed suicide while she was living with Blanche Miller. Miller blamed his mother for the suicide, which caused the breakdown of their relationship. Thereafter, Miller saw his mother only twice during the eight years preceding her death.

(5) Miller claims that the trial court improperly ignored the following evidence that he suffered mental anguish by reason of his mother's death: Miller cried when he learned his mother had died, and again when he told his son of her death. Miller undertook the responsibility, as executor of her Estate, to sort out family photos and memorabilia, dividing the items among her offspring; and Miller also cried when he went through his mother's belongings. Miller testified that he was sorry about their

estrangement, that he had difficulty dealing with his mother's death, and that he would have done things differently in their relationship had he known that she would die soon. Finally, Miller attended his mother's wake, even though he felt that "the rest of the family wouldn't want him there" and he placed flowers on the altar of his mother's church in her memory.

(6) Disputing his brother's mental anguish claim, Coverdale, as appellee, emphasizes that during the eight years before their mother's death, Miller saw his mother only twice. Moreover, he spoke to her only once on the telephone, when she called to ask what was wrong, at which point Miller hung up on her. Lastly, Coverdale points out that Miller did not attend his mother's funeral, and that he attended the viewing for only 15 minutes.

In addition, Miller's half-brother, Donald, testified that when he informed Douglas that his mother had died and that he (Miller) was named as executor of her Estate, his response was "[s]o, what do you want me to do about it?"

(7) The trial court found as fact that, "given the relationship that Mr. Miller had with his mother over the last eight years of her life, I cannot see that Mr. Miller suffered as a result of her death." Miller's sole basis for appeal is that that finding is clearly erroneous and unsupported by the record, because it disregards uncontroverted evidence that he suffered mental anguish.

(8) On appeal from a decision of the Superior Court in a non-jury trial, this Court reviews “the sufficiency of the evidence and tests the propriety of the findings below.”³ If the Court is satisfied that the findings are supported by the record and are the product of an orderly and logical deductive process, it will affirm.⁴

(9) Miller argues that *Amalfitano v. Baker*⁵ and *Maier v. Santucci*⁶ require a reversal. In both of the cited cases, this Court held that “[w]here the evidence conclusively establishes the existence of an injury, however minimal, a jury award of zero damages is against the weight of the evidence.”⁷ Neither of those cases involved a situation where the only “injury” claimed was mental anguish, but assuming without deciding that that rule also governs mental anguish claims in wrongful death cases, the issue becomes whether the evidence “conclusively establish[ed] the existence of an injury [mental anguish], however minimal”? We conclude that the evidence did not “conclusively establish” that Miller had suffered mental anguish, and that there was ample evidence to find to the contrary.

³ *duPont v. duPont*, 216 A.2d 674 (Del. 1966), *Levitt v. Bouvier*, 287 A.2d 671 (Del. 1972).

⁴ *Id.*

⁵ 794 A.2d 575 (Del. 2001).

⁶ 697 A.2d 747 (Del. 1997).

⁷ *Id.* at 747.

(10) The rationale of *Amalfitano* and *Maier* is that a jury “cannot totally ignore facts which are uncontroverted and against which no inference lies,”⁸ and on that basis award zero (\$0) damages. In both of those cases, however, there was uncontroverted medical testimony that the plaintiff’s physical injury was caused by an accident. Here, the testimony relating to injury (mental anguish) was nonmedical, subjective (and self-serving), and its credibility was controverted by other evidence. For that reason “[a contrary] inference ... [did] lie.”

(11) Miller concedes that there was significant testimony that established both the breakdown of the relationship between Miller and his mother, and the subsequent absence of a relationship. He contends, however that the court ignored his (and his wife’s) testimony that Miller cried when he learned that his mother had died, he placed flowers in her church in her honor, and he completed his duties as executor in a caring manner. That testimony, Miller argues, was not called into question by the appellee.

(12) The appellee responds that even though that specific testimony was not attacked, he did attack the overall credibility of the witnesses who gave that testimony, because they were self-interested, there was no objective corroborating evidence, and their testimony was inconsistent with

⁸ *Amalfitano*, 794 A.2d at 578 (quoting *Maier*, 697 A.2d at 749).

other behavior on Miller's part that undercut his claim of mental anguish. Accordingly, appellee argues, the trial court was free to --and properly did-- reject Miller's testimony, which was the only evidence of mental anguish.

(13) The trial court, as fact finder, has a proper basis for rejecting Miller's claim that Miller had not, in fact, suffered mental anguish. A fair inference from the record is that the trial court chose not to believe Miller or his wife, as it was entitled to do. Moreover, the contrary evidence was sufficient to support the court's finding that Miller had not suffered mental anguish.

WHEREFORE, IT IS HEREBY ORDERED, that the judgment of the Superior Court be, and hereby is, **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs
Justice