IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

OCT 31 1975

GEORGE L. GALYON, DOROTHY GALYON	:	
v.	:	CIV. 3-75-198
GENERAL ELECTRIC COMPANY	:	
RALPH HICKEY and GRACE HICKEY and HUGH HICKEY and THELMA HICKEY	:	
v.	:	CIV. 3-75-199
GENERAL ELECTRIC COMPANY	:	

O R D E R

Defendants' motion for judgment notwithstanding the verdict or for a new trial was denied on October 30, 1975 in a memorandum dictated from the bench, except the portion of the motion directed to the $35,000.00 property damage award made in favor of

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Ralph Hickey. The Court found that this award was excessive to the extent of $19,000.00. A remittitur of $19,000.00 was granted, leaving a balance of $16,000.00 for property damage. Unless this remittitur is accepted, a new trial is ordered.

As to the amount of the other verdicts, a decision was reserved. After giving the matter further and thorough consideration, the Court makes the following findings and conclusions.

Mrs. Ralph Hickey inherited a parcel of real estate located in Roane County consisting of approximately ten acres. She testified that the property was worth $26,000.00 before the chemical spill and worth between $8,000.00 and $10,000.00 after the spill. Mr. Trent, her expert witness, stated that the property was worth $12,000.00 before the spill and $5,500.00 after the spill. She was awarded $15,000.00 property damage. There is no evidence to support this award. This indicates that the land damage would not exceed $6,500.00. Her tax return that was filed about a year before the spill showed that she felt that her property was worth less than $10,000.00 before the spill. Accordingly, a remittitur of $7,000.00 is ordered on the land damage feature, leaving $8,000.00 as land damage.

Mrs. Ralph Hickey was awarded $5,000.00 for loss of services and consortium of her husband. There was testimony

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to the effect that her husband developed bronchitis and intestinal disorders by reason of the spill. He was in the hospital for four days as a result of the disability sustained from the spill. He was terminated at Oak Ridge by reason of being exposed to radioactive material. He had previously suffered two heart attacks. Mrs. Hickey failed to prove damages in the amount of $5,000.00 for loss of services and consortium. Accordingly, a remittitur is granted of $2,000.00, leaving $3,000.00 for loss of services and consortium.

Ralph Hickey was awarded $25,000.00 for personal injuries. He was hospitalized for four days. The proof is lacking as to permanent disability caused from the spill. His basic complaints were bronchitis and intestinal disorders. He did not prove $25,000.00 damages for his personal injuries. Accordingly, a remittitur of $12,500.00 is granted, leaving an award for personal injuries of $12,500.00.

The case of George Galyon has given us the most difficulty. He claims that as he passed the truck loaded with Pyranol, that it, the Pyranol, spewed from the truck into his face and on his arms and into his lungs. As a result, he claims that he developed bronchial asthma and that this is a permanent disease. Dr. Overholt supported his contention but Dr. Obenour stated that he could not be sure as to whether

the bronchial asthma was permanent. During the trial, Galyon showed evidence of perceptible hoarseness in his voice. He left the courtroom on more than one occasion. Prior to the accident he stated that he was a strong and well man. Two witnesses corroborated him on this point. Prior to the accident he did farming and carpentry work, each of which required good health. He has neither worked at carpentry nor farming since the accident. He formed a partnership with a fellow citizen and went into the furniture business which the partnership has operated up to the time of the trial. He was hospitalized eight days. His hospital and medical bills amounted to $1,530.81. He suffers with coughing and shortness of breath which, as previously indicated, was displayed during the trial. Although the verdict of $70,000.00 appears high, this Court is unable to reach the conclusion that it is not supported by substantial evidence and it, therefore, must stand.

The verdict in favor of Mrs. Galyon in the amount of $10,000.00 must be reduced. The evidence fails to show that she was damaged to the extent of $10,000.00 by reason of loss of consortium of her husband. As previously indicated, he was in the hospital only eight days and has been working every day, or practically every day, in the furniture business since that time. Accordingly, a remittitur of $5,000.00 is granted.

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Hugh and Thelma Hickey were awarded $12,500.00 for property damage. They owned a thirty-five acre tract of land down the road from Ralph Hickey. Hugh testified that the property was worth $50,000.00 before the spill and $30,000.00 to $35,000.00 after the spill. This makes a difference of between $15,000.00 to $20,000.00. Their well was not damaged to the extent that it prevented them from drinking the water. The Tennessee Water Quality Control told them not to use the water between March 21 and April 19. They hauled water a little more than two weeks. Hugh claimed that he couldn't rent his pasture but he did have one customer. He now uses the land to pasture his own cattle. Real estate adjoining his property sold for $2,400.00 per acre. In the opinion of the Court, there was substantial evidence to support the verdict of $12,500.00 property damage to Hugh and Thelma Hickey. Their land was three and one-half times larger than the acreage owned by Ralph Hickey, and this is one of the reasons for not diminishing the award of $12,500.00 for Hugh and Thelma Hickey.

In granting the remittiturs herein shown, the Court has kept in mind the rule that a jury verdict must stand if it is within the maximum limits of a reasonable range. In the considered opinion of the Court, the verdicts that

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have been reduced were not within the maximum limits of a reasonable range.

Unless the remittitur is accepted by the person or persons against whom it is made within ten days from this order, a new trial is awarded as to that person or persons.

Enter:

Robert Taylor
United States District Judge

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