

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

PHILLIP K. BURBRIDGE,)	No. ED98719
)	
Appellant,)	Appeal from the Circuit Court
)	of Franklin County
vs.)	
)	Honorable Isidore I. Lamke
UNION PACIFIC RAILROAD)	
COMPANY and HARSCO)	
CORPORATION,)	
)	
Respondents.)	FILED: September 24, 2013

Phillip Burbridge (“Burbridge”) appeals from the judgment of the trial court in favor of Union Pacific Railroad Company (“Union Pacific”) and Harsco Corporation (“Harsco”) (collectively, “Respondents”). Burbridge alleged he was injured in a train accident while working as a conductor for Union Pacific. After the trial court entered an order finding Respondents were negligent, the jury returned a verdict in favor of Respondents on the issues of causation and damages. Burbridge subsequently filed a motion for new trial on the issue of damages, which was denied.

Burbridge asserts that the trial court erred in denying his motion for a new trial because (1) the damages instruction given to the jury was misleading; (2) Respondents failed to present sufficient evidence to warrant submission of the mitigation of damages instruction; and (3) the jury’s verdict awarding Burbridge zero damages was against the manifest weight of the evidence.

AFFIRMED.

Division III Holds: Because the jury found in favor of Respondents in their verdict, the damage instructions submitted by the trial court did not prejudice Burbridge as such instructions instructed the jury on the law relating to damages only if the jury first found in favor of the plaintiff. Because the jury verdict in favor of Respondents is not against the manifest weight of the evidence, we affirm the judgment of the trial court.

Opinion by: Kurt S. Odenwald, J., Mary K. Hoff, P.J., and Angela T. Quigless, J., Concur.

Attorney for Appellants: John T. Papa

Attorney for Respondents: Mary A. Mellow, Mark A. Prost, and Timothy C. Sansone

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