

## Traumatic Brain Injury Pain and Suffering Verdict of \$1,900,000 Affirmed on Appeal for 79 Year old Woman Struck by Bus

Posted on October 12, 2009 by [John Hochfelder](#)

On May 26, 2006, **Veena Sadhwani, then 77 years old, was struck by a bus making a left turn** onto Third Avenue from 32<sup>nd</sup> Street in New York City. The bus driver never saw her before impact which he said took place about 1/3 of the way through the **pedestrian cross-walk**.



Mrs. Sadhwani was **so brain damaged by the time she brought a lawsuit for her injuries that her pre-trial testimony as to exactly where she was that day was wildly inconsistent**. After neurologists for both sides testified and the judge heard some limited testimony from her, the **plaintiff's presence on the witness stand was excused** and the liability aspect of the trial went ahead with just the bus driver and accident reconstruction experts (no one else witnessed the accident). **The jury returned a verdict finding the bus driver 100% at fault**.

As to damages, the jury assessed the testimony of the medical experts for both sides as well as plaintiff's husband as to her before and after condition and they awarded **\$1,900,000** for her pain and suffering (\$900,000 past – 2 ½ years, \$1,000,000 future – 10 years).

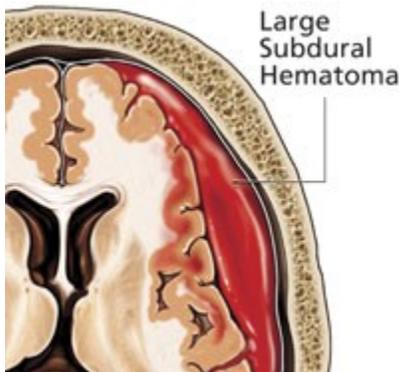
In addition to challenging the liability verdict as not supported by the evidence as well as the judge's rulings on the failure of Mrs. Sadhwani to testify despite her being present in court, the **defense challenged the damages verdict claiming it was unreasonably excessive**. Last week, the appellate court upheld the verdict in its entirety in [Sadhwani v. New York City Transit Authority](#).

The **court decision merely states that plaintiff suffered an extensive brain injury** that has had devastating effects; however, there was little else to explain what precisely happened medically and why it was reasonable for a jury to award \$1,900,000 for pain and suffering to a then 79 year old woman.

**We have uncovered the injury details. Here they are:**

- <!--[if !supportLists]-->• <!--[endif]-->Fractured skull
- <!--[if !supportLists]-->• <!--[endif]-->Subdural hematomas
- <!--[if !supportLists]-->• <!--[endif]-->Subarachnoid hemorrhage

- Fractured ribs, fractured clavicle and collapsed lung



After a three week hospitalization with intensive physical and occupational therapy, plaintiff was discharged to home and then treated as an outpatient undergoing vesticular rehabilitation.

**There was little dispute at trial about Mrs. Sadhwani's total, severe and permanent disability:**

- can no longer speak spontaneously, go to the bathroom or participate in any daily activities independently
- essentially has no memory and cannot recognize relatives
- is clinically Bradyphrenic (meaning not thinking)
- requires constant home health aide

Her doctor characterized Mrs. Sadhwani as **totally disabled from post-traumatic Parkinsonism** (the development of Parkinson's disease symptoms following a severe head injury).

The defense neurologist who examined Mrs. Sadhwani two years before trial issued a report in which he conceded that her cognitive, memory and other problems were the result of trauma consistent with a skull fracture, hemorrhage and hematoma. **At trial, the defense doctor changed his position and claimed that these devastating injuries were at least partly attributable to an unrelated stroke that occurred a year after the accident.** Plaintiff's neurologist countered (and the jury obviously concluded) that the stroke was itself caused by the accident trauma.

This was a particularly significant pain and suffering award given that plaintiff was 79 years old at the time of trial. The jury was instructed, though, that according to the National Center for Health Statistics life expectancy tables, plaintiff had a 10 year life expectancy and they found that \$1,000,000 for 10 years was reasonable given her dramatically altered lifestyle and devastating brain damage.

While there are few comparable appellate court verdicts, the court properly cited Hernandez v. Vavra, a TBI (traumatic brain injury) case we discussed here, where \$2,750,000 was upheld for a retired man in his 60's (almost 70 at trial). That award included \$1,750,00 for 15 years of future pain and suffering.

Clearly, the **appellate courts are approving jury awards well in excess of \$1,000,000 for future damages for people in the 60's and 70's who suffer traumatic brain injuries** resulting in the near destruction of the remaining years of their lives.