NUMBER 13-18-00273-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

VICENTE ESPINOZA AND SAN JUANA ESPINOZA, **Appellants,**

v.

MONICA LIZETTE RUIZ, **Appellee.**

On appeal from the County Court at Law No. 4 of Hidalgo County, Texas.

MEMORANDUM OPINION

Before Justices Benavides, Perkes, and Tijerina
Memorandum Opinion by Justice Perkes

This appeal arises out of a jury verdict in an automobile accident case rendered in favor of appellants Vicente Espinoza and San Juana Espinoza and against appellee Monica Lizette Ruiz. The Espinozas contend that the trial court erred by denying their

motion for judgment notwithstanding the verdict (JNOV) because the jury's findings as to past medical expenses are against the great weight and preponderance of the evidence. We affirm.

I. BACKGROUND

On January 5, 2014, Ruiz's vehicle collided with the Espinozas' vehicle. At trial on April 10, 2018, Ruiz accepted fault for the accident, and the jurors were instructed that the only issue to be determined was: "[W]hat sum of money if paid now in cash would fairly and reasonably compensate Vicente and San Juana for injuries being the result from the accident in question[?]"

A. Monica Lizette Ruiz

Ruiz testified that she was exiting the parking lot of a local grocery store when she "looked both left and right [and] did not see any vehicle." She proceeded into the intersection and collided into the Espinozas' vehicle. Ruiz said her vehicle required towing. At the time, Ruiz and the Espinozas declined medical attention. Ruiz, a teacher, stated she was able to return to work the following day without issue.

B. San Juana Espinoza

San Juana testified her husband, Vicente, was driving at the time of the collision. Airbags deployed upon impact, hitting her "on [her] chest in the front and on [her] shoulders." San Juana stated that she had no bleeding, abrasions, bruising or cuts—"[j]ust a lot of pain." San Juana said the attending police officer only spoke to Vicente, and she was never asked whether she required any medical attention. Two days after the accident, San Juana went to see her doctor in the city of Reynosa in Tamaulipas, Mexico. San Juana said she paid $30 for an examination, and she was prescribed two

medications, “one for the swollenness and the other one for pain to be taken two times a day [for ten days].”

Twenty-two days later, San Juana began seeing Robert Kolodzej, a licensed chiropractor. When asked to expound on the type of treatment she received, she responded: “Medically speaking[,] I don’t know other than I would lay down face down and they would place these patches on my [sic] in this part of the upper back and also on the lower back[,] the waist area.” San Juana also received massages. San Juana testified she attended treatment sessions about three times a week for two weeks until February 12, 2014, when she was discharged from services. San Juana claimed she attempted to make an appointment several weeks later, but Kolodzej refused to treat her.

During cross-examination, she was confronted with x-rays showing only “degenerative conditions to [her] thoracic area,” and a portion of her x-ray results were read into the record. San Juana could not recall being told anything about having a degenerative condition, reiterating that she was told she had swollen pectorals. San Juana conceded, however, that there was nothing in her medical records to support her assertion that she had experienced swelling or any visible injury arising from the accident. According to San Juana, she had never been involved in an accident before and her only preexisting medical condition was for high blood pressure, which she had last been prescribed medication for in 1999.

San Juana stated she delayed seeking medical treatment because, although her husband had health insurance through his work, she was not covered under his plan. She explained on a scale of one to ten, with ten being the highest, she was an eight when she

started seeing Kolodzej. At trial, she described her pain at a level seven, attributing her pain to persistent chest soreness.

C. Vicente Espinoza

Twenty-three days elapsed before Vicente sought any form of medical care. Vicente explained that although he began feeling pain in his neck and back several days after the accident,[1] it was not until he started experiencing difficulty sleeping and struggled to perform his labor-intensive work responsibilities as an air-conditioning technician, that he opted to seek medical treatment. Vicente, however, never sought out his general physician. Instead, he scheduled an appointment with Kolodzej at the advice of his sister, who had seen Kolodzej after she had also been in an accident.

According to a letter signed by Kolodzej, dated June 2, 2014, and addressed to Vicente's counsel, Vicente presented with "spinal nerve irritation" during his initial examination. Kolodzej performed several x-rays and found no fractures, dislocations, or separations. Kolodzej, however, noted multiple "degenerative alterations." Following a series of spinal decompression treatments,[2] Vicente "was dismissed from active case status" on February 12, 2014. Vicente returned on March 25, 2014, complaining of continued pain and seeking additional chiropractic services. Kolodzej advised Vicente to undergo a magnetic resonance imaging (MRI) on his cervical and lumbar regions to explore the "diffuse, degenerative alterations." On April 21, 2014, Kolodzej recommended

[1] Vicente provided conflicting testimony at trial and was confronted during cross examination with his deposition, wherein he stated he did not begin exhibiting pain or discomfort until three weeks after the accident.

[2] "Nonsurgical spinal decompression is a type of motorized traction that may help relieve back pain. Spinal decompression works by gently stretching the spine." *What is nonsurgical spinal decompression therapy*, WEBMD, https://www.webmd.com/back-pain/qa/what-is-non-surgical-spinal-decompression-therapy (last visited May 27, 2020).

that Vicente continue his spinal decompression sessions to address the "disc herniation"[3] revealed by the MRI. By June 2014, Vicente had attended thirty sessions with Kolodzej, "successfully completed all of the recommended regimen," and was "no longer experiencing pain and ha[d] full mobility to the lumbar spine region."

Two years later, in May 2016, Vicente returned to Kolodzej and received nine more treatment decompression sessions.

Although Vicente had health insurance through his employment, he testified that he did not seek medical treatment through his insurance provider nor did he submit any insurance claims.

D. Affidavits

In lieu of live-witness expert testimony, the Espinozas submitted into evidence documents entitled "Affidavit of Custodian of Medical Billing Records," indicating medical costs owed by them. The four affidavits consisted of a pre-typed form containing fill-in-the-blanks, where the healthcare provider could write in their name and total amounts charged, paid out, and past due. The affidavits uniformly stated: "The service provided was necessary and the amount charged for the service was reasonable at the time and place that the service was provided."

The affidavits indicate San Juana owes $1,368 to Kolodzej, and Vicente owes $9,237 to Kolodzej, $4,300 to the MRI facility, and $619 to Waltham Consultants, the provider responsible for interpreting and reporting his MRI results.

[3] "A herniated disk refers to a problem with one of the rubbery cushions (disks) that sit between the individual bones (vertebrae) that stack to make your spine." *Herniated Disk*, MAYO CLINIC https://www.mayoclinic.org/diseases-conditions/herniated-disk/symptoms-causes/syc-20354095 (last visited May 27, 2020).

E. Damages

The Espinozas requested "$14,156 plus a thousand dollars on the blank" for "medical care expenses incurred in the past" and an additional "five hundred dollars" for (1) past physical pain and mental anguish; (2) future physical pain and mental anguish; (3) past physical impairment; (4) future physical impairment; and (5) future medical care expenses.

The jury awarded Vicente and San Juana each $500 for past medical care expenses.

The Espinozas moved for a JNOV, requesting that the trial court disregard jury answer number 1, because "the evidence presented was uncontroverted." The trial court denied the JNOV, and this appeal followed.

II. PAST MEDICAL EXPENSES

By their sole issue, the Espinozas assert that the trial court erred by denying their motion for JNOV because the evidence is legally insufficient to support the jury's finding that they were only owed $500 each for past medical expenses when the "reasonableness and necessity of their medical bills were uncontroverted." The Espinozas do not challenge the jury's findings with respect to any other damages.

A. Standard of Review

The denial of a motion for JNOV is reviewed under a legal sufficiency standard. *City of Keller v. Wilson*, 168 S.W.3d 802, 827 (Tex. 2005); *Ex parte City of Corpus Christi*, 427 S.W.3d 400, 404 (Tex. App.—Corpus Christi–Edinburg 2013, pet. denied). We "credit evidence favoring the jury verdict if reasonable jurors could, and disregard contrary evidence unless reasonable jurors could not." *Cent. Ready Mix Concrete Co. v. Islas*, 228

S.W.3d 649, 651 (Tex. 2007). We must uphold the jury's finding if more than a scintilla of competent evidence supports it. *See Tanner v. Nationwide Mut. Fire Ins. Co.*, 289 S.W.3d 828, 830 (Tex. 2009). "The final test for legal sufficiency must always be whether the evidence at trial would enable reasonable and fair-minded people to reach the verdict under review." *City of Keller*, 168 S.W.3d at 827. Thus, in order to establish that they were entitled to JNOV, the Espinozas must show that the evidence conclusively proved that they were owed compensation for past medical expenses and that no reasonable factfinder was free to think otherwise. *See Tanner,* 289 S.W.3d at 830. "Evidence is conclusive only if reasonable people could not differ in their conclusions, a matter that depends on the facts of each case." *City of Keller*, 168 S.W.3d at 816.

B. Applicable Law

The mere fact of injury or past medical expenses do not prove compensable damages. *See Gunn v. McCoy*, 489 S.W.3d 75, 101 (Tex. App.—Houston [14th Dist.] 2016) (*Gunn I*), *aff'd*, 554 S.W.3d 645 (Tex. 2018) (*Gunn II*). Additionally, this Court and our sister courts have uniformly recognized a distinction between cases presenting uncontroverted "objective" evidence of an injury from cases in which the plaintiff's injuries are more "subjective" in nature—allowing for the presence of the latter to afford jurors a greater, undisturbed latitude of discretion. *See Villa v. Martinez*, No. 13-17-00664-CV, ___, S.W.3d ___, ___, 2019 WL 2094321, *2 (Tex. App.—Corpus Christi–Edinburg May 1, 2019, no pet.); *Rumzek v. Lucchesi*, 543 S.W.3d 327, 332 (Tex. App.—El Paso 2017, pet. denied); *In re State Farm Mut. Auto. Ins. Co.*, 483 S.W.3d 249, 263 (Tex. App.—Fort Worth 2016, no pet.) ("When there is uncontroverted, objective evidence of an injury and the causation of the injury has been established, appellate courts are more likely to

overturn jury findings of no damages for past pain and mental anguish."); *Lopez v. Salazar*, 878 S.W.2d 662, 663 (Tex. App.—Corpus Christi–Edinburg 1994, no writ) (noting that although the jury is the sole judge of the credibility of witnesses and the weight to be given a witness's testimony, the jury may not disregard the objective symptoms or signs of injury and render a verdict of no damages or award less than the undisputed medical expenses caused by the accident).

Regardless of whether the at-issue injuries are objective or subjective, a claim for past medical expenses must be supported by evidence that (1) the plaintiff's injuries were caused by the defendant's negligence, and (2) the medical treatment was necessary and the charges for that treatment were reasonable. *See Haygood v. De Escabedo*, 356 S.W.3d 390, 399 (Tex. 2011); *Texarkana Mem'l Hosp., Inc. v. Murdock*, 946 S.W.2d 836, 840 (Tex. 1997) ("[We] hold that a plaintiff should recover only for medical expenses specifically shown to result from treatment made necessary by the negligent acts or omissions of the defendant[.]"); *Walker v. Ricks*, 101 S.W.3d 740, 746 (Tex. App.—Corpus Christi–Edinburg 2003, no pet.).

To establish evidence of reasonableness and necessity, a claimant may produce an affidavit under § 18.001 of the Texas Civil Practice and Remedies Code. TEX. CIV. PRAC. & REM. CODE ANN. § 18.001. Under § 18.001, in the absence of a controverting affidavit:

> [A]n affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary.

Id. § 18.001(b). An affidavit must be made by "(A) the person who provided the service; or (B) the person in charge of records showing the service provided and the charge

made." *Id.* § 18.001(c)(2); *see Gunn II*, 554 S.W.3d at 672. Additionally, the affidavit must provide for an amount "actually paid or incurred, not the amount billed." *Gunn II*, 554 S.W.3d at 672 (citing TEX. CIV. PRAC. & REM. CODE ANN. § 41.0105); *Gunn I*, 103–04 (providing that where a claimant has medical insurance coverage: (1) recovery is limited to only those amounts that have been or must be paid by or for the claimant, excluding the difference between such amounts and charges the health care provider bills but has no right to be paid, and (2) anything beyond such recoverable amounts is irrelevant and inadmissible); *see generally Haygood*, 356 S.W.3d at 396–400.

"Although not conclusive as to the amount of damages, a proper section 18.001 affidavit constitutes legally sufficient evidence to support findings of fact as to reasonableness and necessity." *Gunn I*, 489 S.W.3d at 102; *see Ten Hagen Excavating, Inc. v. Castro-Lopez*, 503 S.W.3d 463, 491–92 (Tex. App.—Dallas 2016, pet. denied) ("[Section 18.001 affidavit] is not conclusive evidence as to the amount of recoverable damages for past medical expenses."); *Walker*, 101 S.W.3d at 746 ("Proof of amounts charged or paid for past medical expenses is not proof of the reasonableness of those expenses."). Section 18.001 affidavits also do not establish the requisite causal link between the occurrence and the plaintiff's medical expenses. *Gunn I*, 489 S.W.3d at 102.

C. Analysis

Here, the medical billing records and accompanying affidavits were submitted pursuant to § 18.001. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 18.001(b); *Owens v. Perez ex rel. San Juana Morin*, 158 S.W.3d 96, 110 (Tex. App.—Corpus Christi–Edinburg 2005, no pet.). The Espinozas assert that such evidence, uncontested by a controverting affidavit from Ruiz, proves the reasonableness and necessity of medical expenses

incurred. Ruiz counters that the alleged injuries are subjective in nature, and therefore the jury was permitted to disregard the affidavit evidence.

We address the evidence admitted by each plaintiff in turn.

1. San Juana

The evidence indicated San Juana did not immediately seek medical assistance, instead visiting her physician's office two days after the accident, complaining of chest and back pain. She exhibited no visible signs of injury, and she was prescribed medication to address any complained-of inflammation and pain for up to ten days of use. Twenty-two later, San Juana sought out the services of a chiropractor without a physician referral or recommendation. At her initial consultation and examination, she had x-rays taken, indicating only a degenerative condition. For two weeks, San Juana returned to Kolodzej for continued treatment, and she was charged $1,368 for Kolodzej's services. The medical and business records affidavit submitted by Kolodzej provided for the following "Billing Records" breakdown:

> The total amount of the charges is: $1,368.00
> The amount adjusted or written off: ---
> The amount paid by insurance on behalf of patient is: ---
> The amount paid by the patient is: ---
> The balance due on the account is: $1,368.00

There was no evidence presented, outside San Juana's testimony, that she experienced swelling or any objective complaint of pain.[4] Thus, a rational juror could have

[4] San Juana cites to several cases in support of her proposition that we find the jury award unsupported by the evidence, but we find the cases to be substantively distinguishable. *See Horton v. Denny's Inc.*, 128 S.W.3d 256, 262 (Tex. App.—Tyler 2003, pet. denied) (finding award of $1,000 in past damages against great weight and preponderance of evidence where undisputed evidence showed medical bills of $4,717.25 directly related to plaintiff's objective injury); *Hill v. Clayton*, 827 S.W.2d 570–74 (Tex. App.—Corpus Christi–Edinburg 1992, no writ) (holding Clayton "established by uncontroverted expert testimony" that the submitted medical bills, amounting to $8,939.45, were "reasonable and necessary for treatment of the gunshot wound" he sustained from Hill); *Downing v. Uniroyal, Inc.*, 451 S.W.2d 279, 283 (Tex. App.—Dallas 1970, no writ) (reversing a jury award for $12 for past medical expenses where

inferred that San Juana's visit to her physician in Mexico prior to her twenty-two delay was reasonable and necessary to treat the nature and extent of any injuries sustained by the collision, whereas the treatment by Kolodzej that followed was not. Likewise, a rational jury could have also concluded, based on these facts, that San Juana's initial examination by Kolodzej and x-ray[5] confirming no injury were similarly reasonable and necessary to determine the nature and extent of any injuries sustained by the collision, whereas the treatment that followed was not. *See Enright v. Goodman Distribution, Inc.*, 330 S.W.3d 392, 403 (Tex. App.—Houston [14th Dist.] 2010, no pet.) ("We will not disregard a jury's damage award merely because the jury's reasoning in reaching its figures is unclear."); *see also Harris v. Ranebenur*, No. 07-17-00014-CV, 2018 WL 3244858, at *2 (Tex. App.—Amarillo July 3, 2018, no pet.) (mem. op.) ("For an undisputed injury that is less serious and accompanied only by subjective complaints of pain, a jury may reasonably believe that the injured party should be compensated for seeking enough medical care to ensure that the injury was not serious yet also conclude the injured party never suffered pain warranting a money award.").

We additionally observe that the $500 awarded to San Juana would have been sufficient to cover the initial examination and x-ray and was thus, within the range of expense evidence presented. *See Gulf States Util., Co. v. Low*, 79 S.W.3d 561, 566 (Tex.

---

undisputed testimony indicated Downing had incurred $600 in expenses, and the complained-of injury was "objective, visible"). Each aforementioned case concerns evidence of objective injuries, which as noted *supra*, are absent here. Where the alleged injury is subjective, the jury is within its discretion to award zero or minimal damages. *See Villa v. Martinez*, No. 13-17-00664-CV, ___, S.W.3d ___, ___, 2019 WL 2094321, *2 (Tex. App.—Corpus Christi–Edinburg May 1, 2019, no pet.); *Rumzek v. Lucchesi*, 543 S.W.3d 327, 332 (Tex. App.—El Paso 2017, pet. denied) ("[I]f the plaintiff's complaints are subjective in nature and, therefore, incapable of direct proof, the jury may award zero damages.").

[5] Kolodzej provided the following x-ray impressions in his radiology report: "This study demonstrates moderate degenerative alterations within the vertebral bodies endplates and IVD structures. Curvatures are adequate and the thoracolumbar injunctions are intact. No fractures were identified, remaining findings are unremarkable."

2002) (noting jury generally has discretion to award damages within range of evidence presented at trial); *Walker*, 101 S.W.3d at 748 (where doctor's testimony "that the medical charges, totaling $43,947.36, were both reasonable and necessary as a result of the injury incurred by [the plaintiff] in the accident" went without contradiction and jury rendered zero damages for past medical expenses, it was within the jury's providence to do so"); *see also Curtin v. Poindexter*, No. 04-17-00123-CV, 2018 WL 3130987, at *6 (Tex. App.—San Antonio June 27, 2018, no pet.) (mem. op.) (affirming judgment where the jury awarded $12,500 in past medical expenses, although it was presented with evidence that expenses totaled $92,000, as within the range of evidence); *Nguyen v. Lijun Zhang*, No. 01-12-01162-CV, 2014 WL 4112927, at *9 (Tex. App.—Houston [1st Dist.] Aug. 21, 2014, no pet.) (mem. op.) (holding where evidence by affidavit indicated plaintiff owed a hospital $300 for treatment of a knee contusion following a vehicle collision and a chiropractor $4,940 for therapy, a jury award for $300 was proper because it fell within the range of evidence presented at trial).

2. Vicente

Unlike San Juana, Vicente's medical records indicated the presence of objective injuries in the form of "disc herniation." The records are not clear, however, whether the injuries were caused[6] by the accident or degenerative, as Kolodzej suspected in his

[6] Although neither the Espinozas, nor Ruiz, discuss evidence of causation in their respective briefs, instead disputing whether the uncontroverted affidavits supported a finding of reasonableness and necessity of the at-issue medical bills, we nonetheless engage in a causation analysis *infra*. The existence of a valid, uncontroverted § 18.001 affidavit does not relieve the Espinozas of the responsibility of proving causation. *See Haygood v. De Escabedo*, 356 S.W.3d 390, 399 (Tex. 2011) (requiring that the claimant prove "injuries were caused by the defendant's negligence" in addition to proving the reasonableness and necessity of medical charges incurred); *Zimmerman Truck Lines, Inc. v. Pastran*, 587 S.W.3d 847, 860–61 (Tex. App.—El Paso 2019, no pet.); *see also Haddard v. Rios*, No. 13-07-00648-CV, 2012 WL 1142779, at *4 (Tex. App.—Corpus Christi–Edinburg Apr. 5, 2012, pet. denied) (mem. op.).

radiology report.[7] Kolodzej does not independently acknowledge that the accident caused the disc herniation. Kolodzej also does not observe any acute or gross injury or trauma caused by the accident on the images of the x-ray or MRI. Thus, a rational jury could have resolved the conflicts in the evidence regarding injury severity and attribution against Vicente and found medical treatment sought after his initial examination and x-rays unrelated to the accident. *See Hospadales v. McCoy*, 513 S.W.3d 724, 741 (Tex. App.—Houston [1st Dist.] 2017, no pet.) ("When there is conflicting evidence about the severity of the injuries or about whether the injuries were caused by the collision, the jury has the discretion to resolve the conflicts."); *Lanier v. E. Foundations, Inc.*, 401 S.W.3d 445, 456 (Tex. App.—Dallas 2013, no pet.) (providing that it was within the jury's providence to resolve what evidence to believe when evidence was conflicting on whether an accident

[7] Kolodzej did not testify at trial. Kolodzej made the following findings in a radiology report based on x-rays conducted on January 28, 2014:

> CERVICAL SPINE IMPRESSION;
>
> . . . There are diffuse degenerative processes evident within the vertebral bodies, associated endplates[,] and IVD components. Anterior vertebral body compression is noted at C6 level. There is an osseous, free floating entity posterior of the C5 spinous process, most likely representing an old avulsion from the-C5 spinous tip. . . . Remaining findings are unremarkable without evidence of recent fracture.
>
> LEFT SHOULDER IMPRESSION;
>
> This study is unremarkable for evidence of fracture, dislocation[,] and[/]or separation. Moderate, diffuse degenerative alterations are noted consistent for patient's age and gender.
>
> THORACIC SPINE IMPRESSION;
>
> This study demonstrates a compensatory curve with concavity on the left. Moderate degenerative alterations are noted within the vertebral bodies[,] endplates[,] and associated IVD structures. No fractures were identified.
>
> LUMBAR SPINE IMPRESSION;
>
> This study illustrates diffuse, degenerative alterations. There is less than 25% of the IVD remaining at the L4/L5 level and 10% or less remaining at the L5/S1 level. Compression within the L5 vertebral body greater than 50% is noted. Anterior vertebral body compression is noted at the L4 level and to a lesser extent L3. No fractures were identified. . . .

aggravated the plaintiff's degenerative condition); *Hyler v. Boytor*, 823 S.W.2d 425, 427 (Tex. App.—Houston [1st Dist.] 1992, no writ) (upholding zero damage finding for pain and suffering despite award for medical expenses; jury heard evidence of alternative causes for plaintiff's lumbar sprain and spinal injury); *see also Hills v. Donis*, No. 14-18-00566-CV, 2020 WL 206187, at *4 (Tex. App.—Houston [14th Dist.] Jan. 14, 2020, no pet.) (mem. op.) (observing that the plaintiffs "needed expert testimony to establish a causal connection between the accident and their claimed injuries"). We further observe that Vicente was charged just shy of $500 for his initial consultation, examination, and accompanying x-rays, and the jury awarded $500 for past medical expenses—an amount within the range of the submitted evidence. *See Walker*, 101 S.W.3d at 748 (providing a jury has discretion to award damages within the range permitted by the evidence as long as a rational basis exists for the jury's damage calculation); *Enright*, 330 S.W.3d at 403 (same).

Moreover, because Vicente waited twenty-three days before seeking any form of medical attention and continued to work without interruption, a rational juror could infer that at least some of the treatment provided was necessitated by Vicente's own inaction in delaying medical treatment—thereby providing an additional rational basis for their decision not to award 100% of the past medical expenses. *See Low*, 79 S.W.3d at 566; *see also Allesina v. Longshaw*, No. 05-16-01515-CV, 2018 WL 3301588, at *2 (Tex. App.—Dallas July 5, 2018, no pet.) (mem. op.); *Ochoa-Cronfel v. Murray*, No. 03-15-00242-CV, 2016 WL 3521885, at *5 (Tex. App.—Austin June 22, 2016, no pet.) (mem. op.).

3. Summary

Given § 18.001's limitations and the broad discretion the fact-finder has in assessing damages, we cannot conclude on the record before us that the jury's award for either San Juana or Vicente was "against the great weight and preponderance of the evidence." The award for both plaintiffs fell within the range of evidence presented at trial, and we will not disregard the award simply because the jury's reasoning may be somewhat unclear. *See Low*, 79 S.W.3d at 566; *First State Bank v. Keilman*, 851 S.W.2d 914, 930 (Tex. App.—Austin 1993, writ denied); *Poindexter*, 2018 WL 3130987, at *6; *Liang v. Edwards*, No. 05-15-01038-CV, 2016 WL 7163841, at *2 (Tex. App.—Dallas Nov. 23, 2016, no pet.) (mem. op.) ("The jury is not required to award a plaintiff the amount of damages established in the affidavit, but if it chooses to do so, the affidavit is sufficient evidence to support the jury's finding that past medical expenses were reasonable and necessary."). Therefore, the trial court did not err by denying the motion for judgment notwithstanding the verdict on past medical expenses. We overrule the sole issue on appeal.

III. CONCLUSION

We affirm the trial court's judgment.

GREGORY T. PERKES
Justice

Delivered and filed the
28th day of May, 2020.