



Appeals court says railway liable for \$5M verdict

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The Missouri Court of Appeals Southern District on June 25 affirmed a jury verdict of more than \$5 million for a railroad worker injured twice on the job.

James Mitchell was injured in 2015 while working as a conductor at BNSF Railway's Springfield Yard. Mitchell was descending a railcar when the handrail broke, causing him to fall to the ground on his back. The car had been damaged earlier that evening when another train derailed on the neighboring track.

Mitchell underwent surgeries on his low back and shoulder and eventually returned to work, but he injured his back again in 2017 while operating a defective pin-lifting lever to separate railcars. Although Mitchell received multiple spine injections, he has ongoing pain and was unable to return to his job.

At trial in 2018, a Greene County jury awarded Mitchell \$5 million in damages for the 2015 injury and \$80,000 in damages for the 2017. The verdict was the 26th largest plaintiffs' win of 2018, as tracked by Missouri Lawyers Media.

The jury also found Mitchell was 20 percent responsible for his initial injury and 50 percent responsible for the second one. However, Judge Michael J. Cordonnier didn't reduce the verdict, as the suit was brought under the Safety Appliance Act, a federal law that imposes strict liability on the rail carrier.

The statute, however, applies only if the defective car was "in use" at the time of the injury. BNSF argued that the cars had been damaged and were in the rail yard waiting to be repaired, so the SAA shouldn't apply.

The Southern District disagreed. Surveying the applicable federal case law, including a 1916 U.S. Supreme Court case, Judge Daniel E. Scott wrote said the liability law applied even to damaged cars that were being prepared to be moved. Judges Jeffrey W. Bates and William W. Francis Jr. concurred.

Mitchell's attorney, Nelson G. Wolff of Schlichter, Bogard & Denton in St. Louis, said BNSF denied responsibility and claimed at trial that Mitchell was to blame.

"This verdict restores his reputation as a valuable employee and provides him with money needed to pay for significant medical needs and to take care of his family," Wolff said in a statement.

An attorney for BNSF, Laurel Stevenson of Haden, Cowherd & Bullock in Springfield, referred a request for comment to the railway. Andy Williams, a BNSF spokesman, said the company was reviewing the ruling to determine its next steps.

The case is *Mitchell v. BNSF Railway Co.*, SD35586.