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## *Trends in Damage Awards for Spinal Injuries*

*Vivian Solganik\**

**T**HE FUNCTION OF THE SPINE is to provide protection for the spinal cord, to carry the body weight, and to give elasticity and motion to the body.<sup>1</sup> The configuration of the spine is a series of curves, which also indicate the divisions of the spinal column. The cervical spine is convex and made up of seven vertebrae; the thoracic spine, located behind the chest, is concave and comprised of twelve vertebrae; the lumbar spine is a convex section, located behind the abdomen and composed of five vertebrae; the lowest portion consists of the sacrum and the coccyx, each of which is comprised of several fused vertebrae.<sup>2</sup>

Anatomically, the spine consists of a series of vertebrae which are connected with fibrous tissue. A vertebra, typically, consists of several parts which are fused together to form a single bone.<sup>3</sup> Seven spinal processes project from each vertebra, serving as attachments for muscles and ligaments, as well as for articulation with other vertebrae.<sup>4</sup> Between each vertebra lies an intervertebral disc. Each disc is composed of two cartilaginous components: a strong membrane or fibrocartilage, known as the annulus fibrosis, which ties adjacent vertebrae together; and the nucleus pulposus, a soft, pliable mass of fibrocartilage which lies within the annulus fibrosis.<sup>5</sup> In addition to connecting the vertebrae, the intervertebral discs act as shock absorbers for the spinal column.<sup>6</sup>

The spinal cord begins at the base of the brain and runs down to the lower border of the first lumbar vertebra, from which point it continues as a bundle of nerves branching out to various parts of the body. The cord is sheathed in a cartilaginous covering; it floats in spinal fluid in a canal formed by the successive rings of the vertebrae.<sup>7</sup>

Injuries to the spinal column can occur in the form of injuries to a vertebra, to an intervertebral disc or to the spinal cord. Sources of vertebral injury include violent flexion or extension of the spine, direct

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<sup>1</sup> 1 Gray, *Attorney's Textbook of Medicine*, 266 (3rd ed. 1965).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Id.* at 268.

<sup>4</sup> *Ibid.*

<sup>5</sup> Bradford, *Intervertebral Disc Injuries*, 1 *Law. Med. J.* 1 (Aug., 1965).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Op. cit. supra* note 1, at 267.

blows, indirect blows and penetrating wounds.<sup>8</sup> Fractures and/or dislocations constitute the most common vertebral injuries.<sup>9</sup>

Disc involvement generally takes the form of a rupture or a herniation. A ruptured disc involves a laceration or tear in the annulus fibrosis; a herniated disc involves a rupture which, in turn, results in the protrusion of the nucleus pulposus into the spinal canal, with resultant pressure on a spinal nerve or nerve root.<sup>10</sup>

Injuries to the spinal cord can be caused by indirect violence without evident bone involvement, by penetrating wounds, or by dislocation or fracture of the spine. Such injuries may take the form of a concussion, contusion or bruising, laceration, or compression.<sup>11</sup>

This survey covers the years of 1965, 1966 and 1967.<sup>11a</sup> Cases have been grouped into injuries to vertebrae, injuries to intervertebral discs, aggravation of pre-existing injuries, and other spinal injuries, and then subdivided by year. The discussion is limited to injuries of the thoracic, lumbar and pelvic (sacrum and coccyx) segments and of the spinal cord. Cases dealing with injuries of muscles, tendons, and ligaments, including sprains and strains, have not been included.

### Injuries to Vertebrae

\$87,345 was awarded to a 40 year old man who sustained a fractured back involving the 3rd thoracic vertebra which resulted in a "goose neck." His earnings dropped from \$7125 per year by \$3125 because of inability to resume his former employment. With a potential of 22 more work years, it was held that the jury could reasonably compute future wage loss as \$68,750 (22 times \$3125) and that plaintiff was entitled to recover this, as well as for pain and suffering.<sup>12</sup> In another case, \$7057 went to a woman who suffered a compression<sup>13</sup> fracture of the 1st lumbar vertebra when a dressing table stool on which she was standing collapsed, while she was a guest at a motel. She was hospitalized for one month, wore a brace for several months, and incurred \$3557 in special damages.<sup>14</sup> \$7500 went to a man who sustained a fractured sacrum. Plaintiff was out of work for seven weeks, losing \$150 per week in wages; he lost the equivalent of six more weeks because of days missed due to

<sup>8</sup> 2 Lawyers' Medical Cyclopedia of Personal Injuries and Allied Specialties (C. Frankel, M.D., ed.) § 16.79c (Supp. 1965).

<sup>9</sup> *Ibid.*

<sup>10</sup> *Op. cit. supra* note 5.

<sup>11</sup> *Op. cit. supra* note 8, § 16.79d.

<sup>11a</sup> For tables and illustrations of similar cases and awards in years prior, see, Oleck, *Damages to Persons & Property*, 966.141-966.145 (1961 rev. ed.).

<sup>12</sup> *Haney v. Burgin*, 106 N.H. 213, 208 A. 2d 448 (1965).

<sup>13</sup> Compression fractures are the result of indirect violence, causing a squeezing together of the vertebral body or bodies; varies from a fracture of a small fragment to severe fracture of entire vertebra. Clemmons, *Compression Fractures of the Vertebrae*, in *The Medico-Legal Aspects of Back Injury* (S. Schreiber, ed. 1965), at 55.

<sup>14</sup> *Nettles v. Forbes Motel, Inc.*, 182 So. 2d 572 (Ct. App., La. 1966).

pain. He had to wear a back brace for two years and suffered recurrent pain.<sup>15</sup>

In another jurisdiction, \$8392 was awarded to a man who sustained compression of four vertebrae in a collision. He was unable to bend or do strenuous work and had to wear a back brace. Doctor testified that it might be six to twelve months before plaintiff could attempt strenuous activity, but he could not say whether the disability would be permanent.<sup>16</sup> \$29,833 to a man who sustained fractures of the mid-back and pelvis in a collision. Plaintiff proved special damages totalling \$3833; he had been hospitalized for a total of seventy days; future surgery for spinal fusion<sup>17</sup> would be required, necessitating hospitalization and inactivity for up to four months. It was held that the trial court's overruling of defendant's objection to the use of a unit-of-time computation of damages by plaintiff's attorney in his final argument was an error. However, since the damages awarded were not excessive, the error was not prejudicial.<sup>18</sup> \$27,000 to a woman who sustained a fracture in the lumbar spine at L-3 and a cerebral concussion when a bus stopped suddenly and she was thrown to the floor. She had been hospitalized; had to wear a back brace; suffered pains in her lower back and legs and recurrent headaches. Special damages totaled \$6500.<sup>19</sup>

A 63 year old man who suffered compressions of the 12th thoracic and 1st lumbar vertebrae with a fracture of the spinous process was awarded \$35,825, in an action for assault and battery. Plaintiff had a life expectancy of 14.4 years and had been earning \$2400 per year as a fruit peddler. He had been under the care of an orthopedic surgeon; future medical costs were estimated at \$50-\$100 per year; he had to wear a back brace and was unable to resume his former work.<sup>20</sup>

A husband and wife received \$8633 as damages for compression fracture of the sacrum and reactivation of an old coccygeal pain from an earlier fractured coccyx, all sustained by the wife when she slipped on the floor of defendant's store. She was hospitalized twice for a total of 6½ weeks and was in traction while in the hospital; while at home, she was placed on a fracture board; she continued to need domestic help several days a week. \$2133 of the total award went to the husband for hospital and medical costs and other special damages.<sup>21</sup> \$8922 was awarded to a husband and wife for a compression fracture of the 4th,

<sup>15</sup> Schaffer v. Stamm Trucking Co., 68 Ill. App. 2d 42, 215 N. E. 2d 9 (1966).

<sup>16</sup> Vanderpool v. Rakes, 409 S.W. 2d 163 (Ct. App. Ky., 1966).

<sup>17</sup> An operative procedure performed to fix two or more vertebrae together; done for a number of spine abnormalities. Bailey, Back Injuries—A Study of Ruptures of the Lumbar Intervertebral Disc, *op. cit. supra* note 13, at 152.

<sup>18</sup> Henman v. Klinger, 409 P. 2d 631 (Wyo. 1966).

<sup>19</sup> Connolly v. Phila. Trans. Co., 420 P. 280, 216 A. 2d 60 (1966).

<sup>20</sup> Gilliard v. Pon Lip Chew, 401 S.W. 2d 137 (Ct. App. Tex., 1966).

<sup>21</sup> Dykes v. Champagne, 200 So. 2d 921 (Ct. App. La., 1967).

5th and 6th thoracic vertebrae sustained by the wife in a collision. Plaintiff wife had worn a back brace for several months and had a 10% permanent disability of her body. \$922 was awarded to the husband for community expenses.<sup>22</sup> A man who sustained compression fracture of the 4th lumbar vertebra, contusions of the forearm and head, and nervous trauma and shock in a collision was given \$10,000. The injury resulted in a limitation of motion in flexion, extension and lateral bending; he had to secure work which was less strenuous, sustaining a loss of past and future income; and he had \$973 in medical expenses.<sup>23</sup>

A man who sustained a compression fracture of the 11th dorsal vertebra, contusions of the chest, and possible aggravation of a pre-existing arthritic condition, in a collision, won \$11,140, but saw it reduced to \$10,000. He suffered extensive limitation in his spinal motion and permanent injury to the spine of 10% to 15%; he presented evidence of lost wages, hospital and medical bills.<sup>24</sup> \$35,000 to a man who sustained injury to the coccyx with resultant pain in the lower back and leg, and a lumbo-sacral joint injury due to traumatic arthritis resulting from damage to disc space. Injuries were sustained when plaintiff fell through rotted flooring. He established \$1935 in lost wages, \$1005 in past medical and hospital costs, and \$75 per year for future medical expenses.<sup>25</sup> \$35,621 to 62 year old man who suffered a "severe orthopedic injury" to the 1st, 2nd and 3rd lumbar vertebrae in a collision. He had been hospitalized for several months, wore a back brace and was unable to walk naturally. He would be unable to work unless he went through surgery for spinal fusion, but refused to do so because of the risk involved. Award included \$3621 for past and future medical care and \$8000 for past and future loss of wages.<sup>26</sup>

A husband and wife won \$40,000 for injuries sustained by the wife when her foot caught in a crack on defendant's premises and she fell. Injury involved compressed fracture of the 12th thoracic vertebra and a comminuted fracture of the arm. She was hospitalized for seven days and had to remain in a sitting position for twenty-three days following the injury. She had pain and discomfort when bending, had to use a cane for balance and had limited arm motion. Medical costs were \$550. The husband received \$10,000 as special damages out of the total.<sup>27</sup>

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<sup>22</sup> *Martinez v. U. S. Fire Ins. Co.*, 203 So. 2d 425 (Ct. App. La., 1967).

<sup>23</sup> *Treadway v. State Farm Ins. Co.*, 204 So. 2d 609 (Ct. App. La., 1967).

<sup>24</sup> *Rogers v. Stuyvesant Ins. Co. of N. Y.*, 198 So. 2d 685 (Ct. App. La., 1967).

<sup>25</sup> *Cowan v. One Hour Valet, Inc.*, 157 S.E. 2d 843 (W. Va., 1967).

<sup>26</sup> *Tucker v. Lower*, 200 Kan. 1, 434 P. 2d 320 (1967).

<sup>27</sup> *Pensacola Greyhound Racing, Inc. v. Williams*, 193 So. 2d 628 (Ct. App. Fla., 1967).

### Injuries to Intervertebral Discs

A woman who sustained a back injury which resulted in the surgical removal of a disc in the lower back was awarded \$20,000. Evidence showed she had lost \$3240 in wages and incurred \$2760 in medical and hospital expenses.<sup>28</sup> \$26,725 went to a husband and wife for injuries to property and person when they were involved in an automobile accident. The wife sustained a ruptured disc, fractured finger and blood clot of the right knee. She went through surgery for removal of the disc. Surgery was not successful and she was again hospitalized and kept in traction. There was a probable future need for surgery for spinal fusion. The wife received \$20,000; the husband \$6725 covering damage to the car, special damages, and future medical and housekeeping expenses.<sup>29</sup>

A man who sustained a herniated disc when a vertical ventilator tunnel in a corn crib collapsed and fell on him received \$37,500. His injuries were permanent and severely painful; he had to curtail his farming operation, which was his sole livelihood, as well as hiring help to perform the work. Medical expenses had been \$1296 and another operation was recommended which would cost \$1200.<sup>30</sup>

Another man, who sustained ruptured intervertebral disc when he was jolted while riding on a truck, won \$42,000. He was prevented from working by the injury. Two physicians testified, giving opinions as to the nature of the injury; however, the exact nature and extent of the injury was unknown because of plaintiff's refusal to take a myelogram.<sup>31</sup> He had also refused to go through surgery. However, the court held that defendant had not sustained the burden of proving that plaintiff acted unreasonably in refusing to submit to surgery or myelogram.<sup>32</sup>

A husband and wife received \$26,119 for damages due to herniated discs sustained by the wife when both were riding in an ambulance which collided with a car. The wife went through two operations and three myelograms; she wore a brace; and would probably need surgery to fuse the vertebrae. She suffered pain to the point of needing narcotics and was unable to do household work. Of the total award, the husband received \$6119 for past and future medical and domestic help costs.<sup>33</sup> \$75,000 to man for disc injury in the lower back, affecting the spine and right leg, and possible leakage of disc material, resulting in permanent injury. He was 39 years old, with a 32.64 year life expectancy and was

<sup>28</sup> *Ford v. Moore*, 253 Miss. 314, 174 So. 2d 716 (1965).

<sup>29</sup> *Cinguemano v. O'Quinn*, 180 So. 2d 873 (Ct. App. La., 1965).

<sup>30</sup> *Anthes v. Anthes*, 258 Ia. 260, 139 N.W. 2d 201 (1965).

<sup>31</sup> Radiographic study of the spinal canal after the injection of a contrast agent into the subarachnoid space. Friedberger & Harvey, *Myelography*, in 2 *Law. Med. J.* 1 (May, 1966).

<sup>32</sup> *Marcantel v. Southwestern Pipe, Inc.*, 271 F. Supp. 199 (W.D. La., 1965).

<sup>33</sup> *Waller v. King*, 188 So. 2d 231 (Ct. App. La., 1966).

unable to resume work as a railroad brakeman or do any other heavy labor. Defendant admitted to a violation of the Safety Appliance Act which was the proximate cause of the injury.<sup>34</sup>

A man received \$75,000 for a herniated disc sustained while working as a longshoreman on a vessel owned by defendant.<sup>35</sup> He was 40 years old with a 5th or 6th grade education; he had been earning \$5000 to \$6000 per year and was unable to resume work as a longshoreman. He had undergone a laminectomy<sup>36</sup> which, according to medical testimony, had been unsuccessful.

An award of \$175,000, reduced to \$125,000 on motion of defendant, was made for a herniated disc sustained by a man while working as a railroad switchman for defendant. Plaintiff had originally signed a release for \$130; about two years later, he re-injured his back while working, necessitating a laminectomy, after which he became permanently industrially unemployable. Held that both parties had been mistaken as to the nature and extent of the original injury, thereby invalidating the release.<sup>37</sup>

A man who alleged a ruptured disc injury as the result of an automobile collision won \$1500. His initial allegation was a back sprain; he amended his petition to allege a ruptured disc and stated he had undergone a laminectomy. It was held that he had failed to prove that the disc injury was caused by this accident. The record showed he was not disabled or unable to work immediately after the accident; he had been involved in a second accident which had been settled out of court; and no medical evidence of disc involvement was discovered until after the second accident had occurred.<sup>38</sup> \$6400 to 50 year old woman who sustained a disc protrusion in a collision. She was hospitalized three times, went through a myelogram and a laminectomy. There was evidence that there would be 10% to 15% permanent disability. There was also evidence that the surgery had been successful leaving plaintiff "relatively free of pain"; that the disc protrusion might not have been caused by this collision; and that future medical expenses might not be due to this accident. The court said that while there was evidence that would support a larger verdict, there was also evidence to support the jury's award.<sup>39</sup>

<sup>34</sup> *Cosgriff v. Chi. & N.W. R.R. Co.*, 255 F. Supp. 65 (D. Minn., 1966).

<sup>35</sup> *Simmons v. Gulf and So. Amer. S.S. Co.*, 260 F. Supp. 525 (E.D. La., 1966).

<sup>36</sup> The removal of that part of a vertebra which covers the spinal cord posteriorly. 2 *Traumatic Medicine and Surgery for the Attorney* (P. D. Cantor, M.D., ed.) at 553n.

<sup>37</sup> *Hollis v. Terminal Railroad Ass'n of St. Louis*, 72 Ill. App. 2d 13, 218 N.E. 2d 231 (1966).

<sup>38</sup> *Corrales v. Travelers Ins. Co.*, 197 So. 2d 900 (Ct. App. La., 1967).

<sup>39</sup> *Dickerson v. Bluebonnet Express*, 410 S.W. 2d 861 (Ct. App. Tex., 1967).

\$12,500 was awarded to a woman injured in automobile accident wherein she sustained a ruptured disc and injured knee. She had been hospitalized, undergone various treatments for relief and cure of the condition, lost eight weeks of work, and wore a steel back brace. She had 15% permanent partial disability of the body.<sup>40</sup> \$24,096 to woman who sustained ruptured intervertebral disc in a collision with a United States mail truck. She had been under a doctor's care for almost three years and her condition worsened until she was a semi-invalid. It was held that the recommended surgery was not so severe that the court should permit plaintiff to continue to refuse to undergo surgery while still being able to recover damages for continuing pain and suffering. Recovery of damages for future pain and suffering was limited to what she could claim if she submitted to the operation within a reasonable time. Damages included \$2006 for pre-trial expenses, \$190 for pre-trial compensatory damages, \$5400 for after-trial compensatory damages, and \$2500 for surgery expenses.<sup>41</sup>

\$118,440 to 31 year old man who sustained a herniated disc during a railroad train derailment. He went through a hemilaminectomy to remove the disc and the portion of the spine involved was fused. He was unable to resume his previous work as a lithographic press operator and had to do "light work." The award included \$12,000 for pain and suffering, \$16,440 for loss of past wages, and \$90,000 for loss of future wages.<sup>42</sup>

### **Aggravation of Pre-Existing Condition**

The sum of \$4481 was awarded for aggravation of a pre-existing spinal condition resulting in the need for surgery for a herniated nucleus pulposus. A neurosurgeon testified to his opinion that the accident had aggravated a pre-existing condition and a myelogram showed the injury. Of the total award, the victim's husband received \$981 for community expenses.<sup>43</sup>

A man suffered an aggravation of a pre-existing back condition in a collision with defendant's truck, for which he received \$69,420. He subsequently went through surgery for spinal fusion, was in a body cast for several months, and was then fitted with a steel chair and brace and eventually with a corset. He suffered pain to the point of needing narcotics and was 100% disabled from his previous work and 75% permanently disabled.<sup>44</sup> \$125,000, reduced by remittitur to \$80,000, was awarded to a 52 year old man who sustained a re-injury of a previous back

<sup>40</sup> Freeman v. Reeves, 410 S.W. 2d 740 (Ark., 1967).

<sup>41</sup> Cline v. United States, 270 F. Supp. 247 (S.D. Fla., 1967).

<sup>42</sup> Culley v. Penna. R.R. Co., 244 F. Supp. 710 (D. Del., 1965).

<sup>43</sup> Phillips v. Ins. Co. of No. Amer., 181 So. 2d 446 (Ct. App. La., 1965).

<sup>44</sup> Vaughn v. So. Bakeries Co., 247 F. Supp. 782 (D. So. Car., 1965).



condition, necessitating a second laminectomy. He subsequently had to walk with a cane, bent over 20 to 30 degrees; he wore a back brace and was totally disabled from any gainful employment.<sup>45</sup>

In another case,<sup>46</sup> a man alleged aggravation of a pre-existing degenerating disc condition<sup>47</sup> due to an automobile collision. Plaintiff showed a congenital deformity of the lower back which, according to medical testimony, had been aggravated by this accident, necessitating a laminectomy. He claimed medical expenses of \$3156 and loss of wages. Evidence also showed he had sustained three previous back injuries; that the impact in this accident had been light; that he had not immediately complained of pain; that he had been involved in a subsequent accident; and that he had continued working. He was awarded \$2000.

As a result of an accident where the wife slipped in defendant's store, aggravating a pre-existing spondylolisthesis,<sup>48</sup> and arthritic condition, an award of \$5193 was made.<sup>49</sup> Award included \$1193 as special damages to the husband for medical expenses. \$40,550 was received by a husband and wife for damages sustained in a collision by the aggravation of a pre-existing arthritic condition in the 7th, 8th and 9th dorsal vertebrae. Plaintiff was a 41 year old female with a 32 year life expectancy; she suffered constant back pain and headaches which prevented her from resuming gainful employment and from doing her housework. There was medical testimony as to the nature of the injury and the probability of future pain and the continuation of the condition. Award included \$550 to the husband for medical expenses.<sup>50</sup>

### Other Injuries to Spine and Spinal Cord

A man injured in a collision which resulted in a narrowing of the L-5 interspace and change in the lumbo-sacral facet joints received \$5000. Plaintiff proved \$3610 in actual damages, including hospital and doctor bills, lost wages, automobile damage. An orthopedic surgeon recommended surgery for fusion of the vertebrae, at a cost of \$400 to \$500, requiring four weeks in the hospital and limited activity for one year. Damages were found to be inadequate and the cause was remanded for a redetermination of the damage award.<sup>51</sup>

<sup>45</sup> *Goodman v. Terminal R.R. Ass'n*, 68 Ill. App. 2d 80, 215 N.E. 2d 457 (1966).

<sup>46</sup> *Avery v. Watje*, 61 Cal. Rptr. 280 (Ct. App., 1967).

<sup>47</sup> Narrowing of the interspace normally occupied by the intervertebral disc, due to herniation or other causes. Haynes, *The Diagnosis of Disc Injuries*, in 1 *Law. Med. J.* 3 (May, 1965).

<sup>48</sup> Slipping of the spine, with a defective vertebra sliding forward on the one before. *Op. cit. supra*, note 36, at 523.

<sup>49</sup> *Singleton v. Foodtown, Inc.*, 195 So. 2d 439 (Ct. App. La., 1967).

<sup>50</sup> *Wadsworth v. Russell*, 226 A. 2d 492 (N.H., 1967).

<sup>51</sup> *Johnson v. Wilkinson*, 254 Miss. 475, 182 So. 2d 224 (1966).

In a similar case,<sup>52</sup> a man who fell while trying to avoid being hit by a car and who suffered a narrowing of the intervertebral spaces of the spine received \$4500. Plaintiff was 50% disabled on entering the hospital but was termed in good condition after two weeks, but still in need of therapy. He established special damages totalling \$3047, including hospital and medical expenses and lost wages. His physician was unable to definitely establish whether the condition was caused by the accident or by osteoarthritis or both. \$3273 went to a man who developed an osteoarthritic condition of the back resulting in pain, decreased motion of the back, and difficulty in bending, in a collision.<sup>53</sup> He was hospitalized for sixteen days and out of work for six weeks. He established \$723 in medical and hospital expenses. The award was held to be inadequate and the action remanded for a redetermination of damages; the \$1600 plaintiff received as compensation from his employer while he was out of work had no relationship to the damages recoverable from defendant.

A \$150,000 award was reduced to \$100,000 by remittitur, in the case of a 31 year old man who sustained compression of a nerve root while serving as a tankerman on a vessel owned by defendant.<sup>54</sup> He had a life expectancy of 456 months and work expectancy of 371 months; he lost \$6400 in wages since the accident. Plaintiff went through a laminectomy and had not worked since the injury. He would be unable to do anything but light work and had been earning \$430 per month. \$300,302, reduced by 25% for plaintiff's contributory negligence to \$225,226 for injuries which included fractures and dislocations of vertebrae of the middle back resulting in permanent injuries of the spinal cord and permanent paralysis from the waist down.<sup>55</sup> Plaintiff had been earning \$6200 per year working for defendant; his life expectancy was reduced from 20 years to 10 years by this accident. The original award included: \$32,000 for future nursing care; \$45,000 for future loss of earnings; \$7500 for future medical expenses; \$200,000 for past and future pain and suffering; \$10,000 for miscellaneous damages including drugs, appliances and doctor bills; \$12,000 for loss of wages up to date of trial, reduced by amounts previously paid to plaintiff as compensation.

### Conclusions

In order to better visualize the figures involved, three tables have been prepared to summarize the damage awards previously discussed. For purposes of consistency, the figures represent a total of special and general damages. Many cases did not show a breakdown of the awards.

<sup>52</sup> *Durham v. Sims*, 279 Ala. 516, 187 So. 2d 558 (1966).

<sup>53</sup> *Mineiko v. Rizzuto*, 65 Ill. App. 2d 35, 212 N.E. 2d 712 (1965).

<sup>54</sup> *Emerton v. Canal Barge Co., Inc.*, 70 Ill. App. 2d 49, 216 N.E. 2d 457 (1966).

<sup>55</sup> *Chamberlain v. Shaver Trans. Co.*, 263 F. Supp. 47 (D. Ore., 1967).

In addition, those awards which were reduced are shown in the lesser amount, and awards which were determined to be inadequate are not tabulated.

The first chart represents a comparison of fourteen cases dealing with vertebral injuries to twelve cases dealing with disc injuries, for all three years. This indicates that awards for disc injuries tend to be higher. The low end of the ranges are virtually alike, but there is a significant difference at the high end. The trend is more clearly seen in comparing the median and average figures.

TABLE A

## Comparison of Awards for Disc and Vertebral Injuries

	<i>High-Low</i>	<i>Median</i>	<i>Average</i>
Disc	\$118,440-\$6400	\$32,112	\$45,315
Vertebral	\$ 87,345-\$6633	\$10,000	\$24,937

In tracing the three year trend, two charts are shown. One is based on twenty-six disc and vertebral injuries and the other on thirty-five cases involving all spinal injuries.

TABLE B

Trend in Awards for Vertebral and Disc Injuries  
1965-1967

	<i>High-Low</i>	<i>Median</i>	<i>Average</i>
1965	\$ 87,345-\$20,000	\$37,725	\$42,774
1966	\$ 80,000-\$ 7,057	\$28,416	\$37,172
1967	\$118,440-\$ 6,400	\$24,096	\$28,046

TABLE C

Trend in Awards for All Spinal Injuries  
1965-1967

	<i>High-Low</i>	<i>Median</i>	<i>Average</i>
1965	\$ 69,420-\$ 4,481	\$37,725	\$41,110
1966	\$150,000-\$ 4,500	\$29,833	\$50,119
1967	\$300,000-\$ 2,000	\$11,225	\$43,370

In Table B, the average and median figures indicate a downward trend. In Table C, the median damage award figures also show a downward tendency. However, the Table C average figures do not show any trend, but tend to cluster in the \$40,000-\$50,000 range. This does not substantiate or negate a trend.

The high-low figures, especially in Table C, tend to reflect the extremes in damage awards in terms of severity of injury and results. In four out of the five cases in which the awards were over \$100,000, the injured persons each went through an apparently unsuccessful laminectomy and were thereafter disabled from gainful employment. The fifth case involved spinal cord damage and permanent paralysis.

The average and median figures are more reflective of the middle range of cases, wherein there has been some degree of recovery and ability to work. These tend to indicate a downward trend over the three years discussed.