[Cite as *Jaffery v. Ohio Dept. of Transp.*, 2019-Ohio-5480.]

JOSH B. JAFFERY, et al Plaintiffs v. OHIO DEPARTMENT OF TRANSPORTATION Defendant	Case No. 2018-01378AD Deputy Clerk Daniel R. Borchert MEMORANDUM DECISION

{¶1} Josh and Samantha Jaffery ("plaintiffs") filed this claim against the Ohio Department of Transportation ("ODOT"), to recover damages which occurred when their 2017 Mini Cooper struck a pothole on August 11, 2018, while they were traveling on Interstate Route ("IR") 70 Eastbound in Columbus, Ohio. This road is a public road maintained by ODOT. Plaintiff's claimed damages totaled $1081.17. Plaintiffs submitted the $25.00 filing fee. Plaintiffs maintain an insurance deductible of $500.00.

{¶2} Defendant submitted an Investigation Report and a Motion to Reduce the Prayer Amount. Defendant stated it is willing to pay for plaintiffs' stated deductible of $500.00 plus the $25.00 filing fee. However, defendant asserted it should not be responsible for the hotel or food expenses plaintiffs incurred.

{¶3} Plaintiff did not respond to defendant's Investigation Report or Motion to Reduce the Prayer amount.

{¶4} With respect to the hotel and food expenses that plaintiffs incurred due to the damage sustained to their vehicle, "If an injury is the natural and probable consequence of a negligent act and it is such as should have been foreseen in the light of all the attending circumstances, the injury is then the proximate result of the negligence. It is not necessary that the defendant should have anticipated the particular injury. It is sufficient that his act is likely to result in an injury to someone." *Cascone v. Herb Kay Co.,* 6 Ohio St.3d 155, 160, 451 N.E.2d 815 (1983), quoting *Neff Lumber Co. v. First National Bank of St. Clairsville, Admr.,* 122 Ohio St. 302, 309, 171 N.E. 327

(1930). This court, as trier of fact, determines questions of proximate causation. *Shinaver v. Szymanski* (1984), 14 Ohio St.3d 51, 471 N.E.2d 477 (1984).

{¶5} Plaintiffs would not have incurred the hotel and food expenses but for the negligence of defendant. Accordingly, these are compensable expenses. See *Maust v. Ohio BMV*, Ct. of Cl. 2005-11248-AD, 2006-Ohio-7149.

{¶6} Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris*, 25 Ohio App.3d 42, 495 N.E.2d 462 (10th Dist. 1985). Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Bd.*, 102 Ohio App.3d 782, 658 N.E.2d 31 (12th Dist. 1995).

{¶7} Upon review of the receipts and invoices submitted by plaintiffs, the court determines plaintiffs are entitled to $170.82 for the hotel expenses incurred. Plaintiffs' receipts only reveal a charge for $170.82. After reviewing the receipts submitted by plaintiffs, the court finds that plaintiffs are entitled to $273.73 for food expenses.

{¶8} Therefore, judgment is rendered in favor of plaintiffs in the amount of $944.55, plus $25.00 for reimbursement of the filing fee pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction*, 62 Ohio Misc.2d 19, 587 N.E.2d 990 (Ct. of Cl. 1990).

JOSH B. JAFFERY, et al Plaintiffs v. OHIO DEPARTMENT OF TRANSPORTATION Defendant	Case No. 2018-01378AD Deputy Clerk Daniel R. Borchert ENTRY OF ADMINISTRATIVE DETERMINATION

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Having considered all the evidence in the claim file, and for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiffs in the amount $969.55, which includes reimbursement of the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

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