

196 A.D.3d 475  
Supreme Court, Appellate Division, Second  
Department, New York.

Elmi MEHMETI, appellant,  
v.  
Joseph MILLER, et al., respondents, et  
al., defendants.

2018-13312  
|  
(Index No. 150930/13)  
|  
Argued—May 14, 2020  
|  
July 7, 2021

#### Attorneys and Law Firms

Law Offices of Bryan J. Swerling, P.C. ([Arnold E. DiJoseph III](#), New York, NY, of counsel), for appellant.

**Seahill** Law Group P.C., Bethpage, N.Y. (Gerard Ferrara of counsel), for respondents.

**HECTOR D. LASALLE**, P.J., **REINALDO E. RIVERA**, **LEONARD B. AUSTIN**, **FRANCESCA E. CONNOLLY**, JJ.

#### \*149 DECISION & ORDER

\*\*\* Start Section

...  
**[4] Damages**—[Impairment of earning capacity](#)

Jury's determination to not award any damages for future lost wages was not contrary to the weight of the evidence, in action by motorist to recover for personal injuries allegedly sustained to his head and left arm as a result of a motor vehicle accident; motorist returned to work only three days after the accident to a high-stress security job, and he continued to work full time through the time of trial.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Richmond County (Kim Dollard, J.), entered October 2, 2018. The order denied the plaintiff's motion pursuant to [CPLR 4404\(a\)](#) for an additur to the award of damages or, in the alternative, to set aside the jury verdict on the issue of damages as contrary to the weight of the evidence and for a new trial on the issue of damages.

ORDERED that the order is affirmed, with costs.

The plaintiff commenced this action to recover damages for personal injuries he allegedly...

**[5] Evidence**—[Conflict with other evidence](#)

In considering the conflicting testimony of the parties' respective expert witnesses, the jury is not required to accept one expert's testimony over that of the other, but is entitled to accept or reject either expert's position in whole or in part.