

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEON KHIABANI, AN INDIVIDUAL;
ARIA KHIABANI, AN INDIVIDUAL;
SIAMAK BARIN, AS EXECUTOR OF
THE ESTATE OF KAYVAN KHIABANI,
M.D. (DECEDENT); THE ESTATE OF
KAYVAN KHIABANI, MD.
(DECEDENT); SIAMAK BARIN, AS
EXECUTOR OF THE ESTATE OF
KATAYOUN BARIN, DDS
(DECEDENT); AND THE ESTATE OF
KATAYOUN BARIN, DDS,
(DECEDENT),
Appellants,
vs.
MOTOR COACH INDUSTRIES, INC., A
DELAWARE CORPORATION,
Respondent.

No. 86417

FILED

NOV 25 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order on remand granting a motion for offset. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Dr. Kayvan Khiabani was riding a bicycle when he collided with a passing bus and was fatally injured. Appellants, Dr. Khiabani's family and estate (the Khiabanis), sued respondent Motor Coach Industries (MCI), who designed and manufactured the bus; the bus driver; the bus operator; and the manufacturer and seller of Dr. Khiabani's helmet. After all defendants except for MCI were served with offers of judgment, all defendants other than MCI settled before trial for a total of \$5.11 million. A jury then awarded the Khiabanis about \$18.7 million against MCI in compensatory damages. MCI moved to offset the judgment by the full

amount paid by the settling defendants. The district court denied any offset, and MCI appealed. This court concluded that MCI was entitled to offset the judgment under NRS 17.245, reversed the judgment as to its amount, and remanded for calculation of the offset due. *Motor Coach Indus., Inc. v. Khiabani by & through Rigaud*, 137 Nev. 416, 427-28, 493 P.3d 1007, 1017 (2021). On remand, the district court offset the judgment against MCI by the full \$5.11 million settlement under NRS 17.245(1)(a). The Khiabanis appeal.

We review the district court's construction of NRS 17.245(1)(a) de novo, *J.E. Johns & Assocs. v. Lindberg*, 136 Nev. 477, 479-80, 470 P.3d 204, 207 (2020), but we will not set aside its factual findings unless they are clearly erroneous or not supported by substantial evidence, *In re Parametric Sound Corp. S'holders' Litig.*, 140 Nev., Adv. Op. 36, 549 P.3d 1189, 1193 (2024).

NRS 17.245(1)(a) provides, in pertinent part, that releasing one of two or more tortfeasors liable for the same injury "reduces the claim against the others to the extent of any amount stipulated by the release or the covenant, or in the amount of consideration paid for it, whichever is the greater." The Khiabanis concede that MCI and the settling defendants were sued for the same injury, and that MCI is entitled to *some* offset under NRS 17.245(1)(a). They argue, however, that the offset must be reduced to account for the unique damages beyond actual damages to which the settling defendants, but not MCI, were exposed: punitive damages and NRCF 68 attorney fees.

Nothing in this record supports any deviation from offsetting the judgment by the "amount stipulated" in the settlements. NRS 17.245(1)(a). The district court found that it did not "have any evidence

from the [Khiabanis] that the settlements . . . for any of the parties included or discussed punitive damages.” The record supports the district court’s conclusion, and the Khiabanis do not claim to have presented such evidence. *Cf. Sky View at Las Palmas, LLC v. Mendez*, 555 S.W.3d 101, 107-09 (Tex. 2018) (explaining that “the plaintiff is in the best position to demonstrate why rendering judgment based on the jury’s damages award would not amount to the plaintiff’s double recovery” (internal quotation marks omitted)). The Khiabanis similarly failed to present evidence of any allocation of the settlement proceeds to NRCP 68 attorney fees.¹

Further, *Lindberg* is distinguishable. There, the percentage of the settlement proceeds that resolved the settling defendant’s exposure to treble damages under NRS 113.150(4) could be determined simply by applying that statute’s plain language. *Lindberg*, 136 Nev. at 483-85, 470 P.3d at 210-11. In contrast, the Khiabanis’ request to reduce the offset cannot be determined by simple application of statutory language. See *Ramada Inns, Inc. v. Sharp*, 101 Nev. 824, 826, 711 P.2d 1, 2 (1985) (explaining that “[a] plaintiff is never entitled to punitive damages as a matter of right,” and “the amount of punitive damages to be awarded cannot be ascertained until the trier of fact has heard all the evidence”); see also *Capriati Constr. Corp., Inc. v. Yahyavi*, 137 Nev. 675, 680, 498 P.3d 226, 231 (2021) (“District courts may award NRCP 68 attorney fees based on a contingency-fee agreement without billing records so long as the party seeking fees satisfies the *Beattie* and *Brunzell* factors.” (emphases added)).

¹Even though the district court did not expressly resolve the attorney fees issue in its order, it implicitly did so by awarding MCI the full settlement amount as an offset. See *Sierra Glass & Mirror v. Viking Indus., Inc.*, 107 Nev. 119, 125, 808 P.2d 512, 515 (1991) (“If the court makes no ruling, findings may be implied when clearly supported by the record.”).

And in light of the Khiabanis' failure to present evidence on remand regarding allocation of the settlement proceeds, we need not further examine the scope of *Lindberg*'s applicability to punitive damages or NRCP 68 attorney fees, neither of which were at issue in *Lindberg*.

Because we discern no error in the district court's decision to offset the judgment against MCI by the full amount of settlement proceeds, we

ORDER the judgment of the district court AFFIRMED.²

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Adriana Escobar, District Judge
Stephen E. Haberfeld, Settlement Judge
Christiansen Trial Lawyers
Cogburn Davidson Injury Lawyers
Kemp Jones, LLP
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas
Womble Bond Dickinson (US) LLP/Las Vegas
Eighth District Court Clerk

²We have considered the parties' other arguments not explicitly addressed here and conclude they lack merit or need not be reached given the disposition of this appeal.