

\$700,000 is awarded to family of man injured at rail crossing

By Richard McBane
Beacon Journal staff writer

A Green Township man, reduced to a semi-comatose state after he drove his car into a train at a controversial Summit County railroad crossing in 1985, has won \$700,000 in an out-of-court settlement reached after a confused Summit County Common Pleas Court jury first awarded him \$859,000.

Patrick Hart, lawyer for the injured Phillip Stair, 28, and his parents, Carl and Mary Lou Stair of Uniontown, said they were pleased with the agreement worked out Wednesday night with K. Richard Aughenbaugh, lawyer for the Chessie System railroad, CSX.

The settlement means that the damages will be paid to the Stairs immediately, rather than being delayed or reversed by an appeal of the original jury verdict.

The Stairs contended in the suit that the Raber Road crossing in Summit's Green Township was known to be dangerous, and that CSX was negligent in not taking steps to

erect crossing gates or other warning signals.

The crossing has been the site of several fatal accidents. Flashing yellow warning lights were erected at the crossing in 1988, but the Ohio Department of Transportation does not rate the crossing as hazardous. Under Ohio law, the state's safety rating of railroad crossings cannot be used as evidence in court.

The confusion arose at the end of the trial when the jury returned conflicting verdicts. The jurors decided unanimously that Stair had suffered \$1,718,000 in damages, and that he was 50 percent responsible for his own injuries when he crashed into the CSX train about 2:20 a.m. on March 27, 1985. They found that Stair was speeding and had ignored warning signs.

Jurors, however, also returned a separate verdict form, agreed to by only six of the eight jurors hearing the case, in which they set damages for Stair at \$800,000.

Judge Mary Spicer, who questioned the

jurors in court about their verdicts, then excused them. Under law, she set the verdict for Stair at \$859,000 or 50 percent of the full \$1,718,000 in damages.

One of the jurors, however, told Aughenbaugh that their real intention was to award Stair only 50 percent of the \$800,000 given on the separate verdict form.

Aughenbaugh then indicated that he would seek a new trial or reduced verdict. Spicer ordered the excused jurors back to court Thursday morning in case they were needed to sort out the affair, but the settlement reached Wednesday night made that unnecessary.

Phillip Stair is at the Little Forest Nursing Care Center in Akron, where he remains semi-comatose. According to medical testimony, he is not expected to recover.

His sister, Barbara, 20, was killed on April 8, 1987, when her car crashed into a train at the crossing on state Route 619 near Spade Road, also in Green Township.