



Will the seat belt defense in this claim reduce the plaintiff's damages?

No, the seat belt defense will not reduce the plaintiff's recovery because the defendant failed to prove how the use of the seat belt would have prevented the plaintiff's specific injuries. Not all states permit evidence of the plaintiff's failure to wear a seat belt to reduce the plaintiff's recoverable damages; however, when a statute provides for this defense the defendant must produce evidence separating the injuries caused by the initial impact of the accident from those that resulted from the plaintiff's failure to wear the seat belt. This generally requires testimony from an expert witness. The defendant in this case failed to prove a causal connection between the plaintiff's failure to use a seat belt and the harm that she suffered. It's also important to understand that not all states recognize the defense or apply it the same way. In some states, evidence of nonuse of a seat belt is admissible to prove contributory negligence, while in others its application is limited to diminishing the plaintiff's damages. A few states apply the defense to pain and suffering, but not economic loss and medical payments. The language of the relevant state statute is always the starting point. If there is no statute, the state's case law must be checked to determine whether the state recognizes the defense and how it is applied.

See AEI's *Law of Automobiles* Course, Para. 4.04 – Defenses to Damages.

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