

FILED

AUG 26 1980

315

CLERK, SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

CLEMENT A. ANDERSON, Next Friend for)
JANICE DEE ANDERSON, A minor child,

Plaintiff-Appellant,

Filed August 26, 1980

vs.

PHAM THUY VAN and
TUONG NGUYEN,

0-174
2-64038

Defendants-Appellees.)

Appeal from Polk District Court - J. P. Denato, Judge.

Plaintiff appeals from the judgment entered on a jury verdict for defendants in this case arising from a rear-end collision between two automobiles. - AFFIRMED.

James W. Carney, of Carney, Hudson, Williams & Green, Des Moines, for plaintiff-appellant.

Jeffrey A. Boehlert, of Patterson, Lorentzen, Duffield, Irish & Becker, Des Moines, for defendants-appellees.

Heard by Oxberger, C.J., and Donielson, Skell, Carter and Johnson, JJ.

PER CURIAM

Plaintiff, Clement A. Anderson, appeals denial of a motion for new trial and from judgment entered on a jury verdict for defendants, Pham Thuy Van and Tuong Nguyen, arising from a rear-end automobile collision. We affirm.

Anderson alleged Pham, the driver, suddenly stopped his vehicle to make a left turn causing his daughter, Janice, to collide with the rear of the Pham-driven car. Anderson specifically alleged Pham, as driver, and Tuong, as owner by virtue of section 321.493, The Code 1977, were negligent in 1) failing to signal and 2) failing to inspect the vehicle and to have the vehicle in operable fashion. Defendants alleged in their answer and Tuong's counterclaim Anderson's negligence was the cause of the accident by 1) failure to keep a proper lookout, 2) failure to have vehicle under control; and, 3) failure to stop within the assured clear distance.

At the close of the evidence, Anderson requested the following instruction:

The law of Iowa provides it is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle . . . which . . . is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required by law. . . .

A failure to comply with this provision of law constitutes negligence.

Iowa Code 1973, § 321.381 (emphasis added).

The court refused Anderson's request and offered instructions on the duty to execute proper turning or stopping signals, not the condition of equipment. The jury found Anderson negligent and awarded Tuong \$1,000.00. Anderson's motion for new trial was denied and this appeal ensued. The appeal and our review is on error assigned. Iowa R. App. P. 4.

Defendants argue the record does not support submission of this separate negligence claim. They argue the requested instruction was incorporated in other instructions; and if any error was made, that error was harmless to Anderson.

More than a mere scintilla of evidence is necessary to support instruction and submission to the jury of a matter. Wiedenfeld v. Chicago & Northwestern Transportation Co., 252 N.W.2d 691 (Iowa 1977). In this case Pham testified he was issued a citation and pleaded guilty to a violation of section 321.821, The Code 1977. He testified the red plastic cover of the rear light was partially broken. He was questioned

about his personal knowledge of the working condition of the rear signal lights. This evidence generates a jury question and supports a negligence instruction. See Dickman v. Truck Transport, Inc., 224 N.W.2d 459 (Iowa 1974).

When evidence supports a pleaded issue, the trial court has a duty to instruct with reasonable fullness on that issue. Wiedenfeld, 252 N.W.2d at 695. Trial courts may offer instructions in their own language as long as all legal principals are fully expressed. Greninger v. City of Des Moines, 264 N.W.2d 615 (Iowa 1978).

Anderson argues all legal principles were not adequately presented in the offered instructions concerning proper signalling. We disagree. The court gave the following instructions:

Instruction 9

The laws of Iowa provide that no person shall turn a vehicle from a direct course upon a highway unless and until ... giving a signal continuously during not less than the last 100 feet traveled before turning by extending the hand and arm from the left side, or by electrical directional lights capable of clearly indicating such intentions and which are visible and understandable....

Instruction 10

The laws of Iowa provide that no person shall stop or suddenly decrease the speed of a motor vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to do so, which signal shall be by extending the hand and arm downward from the left side or by a light located on the rear of the vehicle so as to show the intention and be plainly visible and understandable.... (emphasis added).

The emphasized portions of those instructions adequately covered the required condition of electrical signaling devices. Faulty equipment is a factor in negligent signaling. The jury heard evidence of the condition of signal devices and was instructed on the duty to execute proper signals. In finding Anderson negligent, the jury determined that the condition and use of the equipment were proper.

Finding no error in this matter, we affirm the trial court's judgment.

AFFIRMED.