

IN THE COURT OF APPEALS OF IOWA

No. 4-357 / 93-1899

FILED

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CLERK SUPREME COURT

DONNA HANSON and MARLIN HANSON,

Appellees,

vs.

JANET ANN SCUFFHAM,

Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Paul W. Riffel, Judge.

Scuffham appeals from the district court ruling granting the Hansons' motion for new trial. **REVERSED AND REMANDED.**

Donald L. Carr II and Michael E. Marshall of Smith, Schneider, Stiles, Wimer, Hudson, Serangeli, Robinson, Mallaney, Shindler & Scalise, P.C., Des Moines, and Joseph L. Fitzgibbons and David A. Lester of Fitzgibbons Brothers, Estherville, for appellant.

H. P. Folkers of Folkers & Keen, Mason City, for appellee.

Heard by Donielson, C.J., and Cady and Huitink, JJ.

HUITINK, J.

Janet Scuffham appeals from a district court ruling granting the Hansons' motion for new trial. We reverse and remand.

On October 20, 1990, Donna and Marlin Hanson were involved in a car accident with Janet Scuffham on Highway 18 in Mason City while Scuffham was exiting the Wal-Mart parking lot. Scuffham testified she stopped at the stop sign at the entrance to the highway, signaled to make a right turn, and looked both ways. Scuffham testified she obeyed the stop sign at her exit and that the nearest traffic was at least one-half block away. She also testified the nearest car in the lane she intended to enter had its right turn signal on and was turning into the Wal-Mart turn lane. Scuffham stated she did not see the Hansons' car.

Marlin Hanson testified immediately before the accident he was traveling westbound at thirty to thirty-five miles per hour and was ten to fifteen feet behind the car turning into Wal-Mart. He did not recall seeing Scuffham's vehicle. Donna Hanson testified she did not remember whether her husband was distracted or if she was talking to him at the time of the accident.

The left front of Scuffham's car collided with the right front of the Hansons' car. The investigating officer, Officer Susan Linkenmeyer, testified she did not recall any statements made by Marlin Hanson and did not

recall specifically questioning him. In addition, she had no statements made by Donna Hanson in her report. On cross-examination Officer Linkenmeyer testified she knew Donna Hanson from working with her through the Iowa Department of Human Services.

Scuffham was cited for failure to yield right of way, in violation of Iowa Code section 321.322 (1989). Scuffham testified she pleaded guilty and decided to pay the forty-dollar fine because she did not have the economic resources to contest the ticket.

Hansons filed suit against Scuffham alleging Donna sustained personal injuries as a result of Scuffham's negligence and Marlin suffered a loss of consortium.

After trial, the jury returned a special verdict finding Scuffham was not at fault, and the district court entered judgment on the verdict. Hansons filed a motion for new trial. After a hearing, the district court granted the motion. The court concluded the jury's special verdict was not supported by sufficient evidence and that the court should have granted Hansons' motion for directed verdict on the issue of liability at the close of the evidence.

Our review is for correction of errors at law. Iowa R. App. P. 4. Since the trial court granted the motion for new trial on the basis that it should have granted Hansons' motion for directed verdict, we view the evidence in the light most favorable to the jury's verdict. See Lara v. Thomas, 512 N.W.2d 777, 781 (Iowa 1994) (citation omitted).

Generally, when ruling upon a motion for new trial, the trial court has broad but not unlimited discretion in determining whether the verdict does substantial justice between the parties. Iowa R. App. P. 14(f)(3); Cowan v. Flannery, 461 N.W.2d 155, 157 (Iowa 1990). Although we are more reluctant to interfere with the granting of a new trial than with its refusal, an order granting a new trial will be set aside upon a showing of an abuse of discretion. See Iowa R. App. P. 14(f)(4); Houvenagle v. Wright, 340 N.W.2d 783, 785 (Iowa App. 1983). The fact that a court may have reached a different result is no ground for setting aside a jury verdict and awarding a new trial. Jackson v. Roger, 507 N.W.2d 585, 589 (Iowa App. 1993) (citing Waddell v. Peet's Feeds, Inc., 266 N.W.2d 29, 32 (Iowa 1978)).

Scuffham contends there was sufficient evidence to cause reasonable minds to differ on the issue of liability. She also claims there was sufficient evidence to support the jury's verdict that she was not at fault. We agree.

The jury had both Scuffham's version of the accident and Hansons' version of the accident before it. The evidence was in the form of testimony from four witnesses. This places a high value on determining the credibility of those witnesses. The jury is better able to determine the credibility as it heard the witnesses testify firsthand. See Wilcox v. Hy-Vee Food Stores, Inc., 458 N.W.2d 870, 872

(Iowa App. 1990). The jury apparently determined Scuffham's testimony to be the most credible. The mere fact an accident occurred or a party was injured does not mean a party was at fault. Schermer v. Muller, 380 N.W.2d 684, 691 (Iowa 1986); Armbruster v. Gray, 225 Iowa 1226, 1228, 282 N.W. 342, 344 (1938). Viewing the evidence in the light most favorable to Scuffham, we find the jury could have reasonably found Scuffham was not at fault in the accident.

Courts are not permitted to select one alternative theory to invalidate a jury verdict when another, just as reasonable and as well supported by the evidence, would uphold it. Waddell, 266 N.W.2d at 32. The district court abused its discretion in ordering a new trial. We therefore reverse the district court's order for new trial and remand for entry of judgment consistent with this opinion.

Costs of this appeal are assessed to Hansons. The district court is reversed.

REVERSED AND REMANDED.