IN THE COURT OF APPEALS OF IOWA

No. 2-076 / 91-640

FILED
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CLERK SUPREME COURT

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CARL RUFF,

Appellant,

vs.

BILL FUELLING and **LEROY FUELLING, ALLISON FUELLING, MARY ANN FUELLING,** Individually and d/b/a **FUELLING BROTHERS,**

Appellees.

Appeal from the Iowa District Court for Clayton County, John Bauercamper, Judge.

Carl Ruff appeals a district court order, following a jury verdict, denying his claim for damages arising out of a vehicular accident. **AFFIRMED.**

Kevin C. Neylan of Neylan Law Office, Garnavillo, for appellant.

Marion L. Beatty of Miller, Pearson, Gloe, Burns, Beatty & Cowie, P.C., Decorah, for appellee Bill Fuelling.

Richard K. Whitty of O'Connor & Thomas, P.C., Dubuque, for appellee Fuelling Brothers.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ.

HAYDEN, J.

This negligence action arose out of a vehicular accident that occurred on October 13, 1987. Carl Ruff was driving an LP gas delivery truck on a paved road north of Farmersburg. The day was sunny, and the road was dry. Ruff came upon a farm tractor-wagon combination driving slowly in the same direction. The tractor was driven by Bill Fuelling. Fuelling Brothers owned the tractor. Bill Fuelling owned the wagon and was an employee of Fuelling Brothers. As Fuelling began to make a left turn onto a gravel road, Ruff was in the left lane attempting to pass the tractor and wagon. A collision occurred resulting in injuries to Ruff. Following the accident, Ruff pled guilty to passing too near an intersection. Fuelling pled guilty to failing to give a continuous turn signal.

Ruff filed this action, alleging Bill Fuelling was operating a motor vehicle and negligently turned into the path of his vehicle. Ruff also alleged Fuelling Brothers was liable as the owner of the tractor. The district court determined Bill Fuelling and Fuelling Brothers would be considered one party for purposes of liability. The jury returned a verdict finding Ruff sixty percent at fault and Bill Fuelling and Fuelling Brothers forty percent at fault. Because the jury found Ruff to be more than fifty percent at fault, the issue of damages was not addressed.

Ruff appeals, challenging several district court rulings. Our review is for correction of errors at law. Iowa R. App. P. 4.

Ruff first claims the district court erred in sustaining Fuelling's motion for a directed verdict on the issue of equipment requirements for defendant's vehicle. When considering a motion for a directed verdict, the trial court must view the evidence in the light most favorable to the party against whom the motion is directed. Johnson v. Dodgen, 451 N.W.2d 168, 171 (Iowa 1990) (citation omitted). In reviewing the propriety of the trial court's ruling on such a motion, we view the evidence in the same manner. Id. The question is whether there was sufficient evidence to generate a jury question. Id. If there is substantial evidence to support the claim or defense, the motion for directed verdict should be denied. Id. Under the substantial evidence standard, if reasonable minds might draw different inferences from the facts, even when they are not in dispute or contradicted, the court must submit the issue to the jury. The trial court is vested with considerable discretion in determining whether evidence is sufficient. Hoover's Hatchery, Inc. v. Utgaard, 447 N.W.2d 684, 687 (Iowa App. 1989).

At the time of the accident, Fuelling was driving a tractor-wagon combination from farm site to farm site. The tractor was equipped with two amber lights mounted on the top of the cab. Slow-moving vehicle signs were posted on the rear of both the tractor and wagon. The tractor did not have a side mirror, and the wagon did not have tail lights, brake lights, or turn signals. Ruff first contends

Fuelling was required to place permanent or temporary lights on the wagon. He claims Fuelling failed to comply with the provisions of Iowa Code chapter 321. Also, Ruff alleges Fuelling was required to have temporary or permanent lights in place on the wagon pursuant to the requirements of the Iowa Department of Safety (agency) rules.

Iowa Code chapter 321, which is implemented by various agency rules found in the Iowa Administrative Code, provides for a variety of equipment requirements for motor vehicles. However, Iowa Code section 321.383(1) exempts implements of husbandry and farm tractors from most of those safety requirements. Section 321.383(1) provides:

> [t]his chapter with respect to equipment on vehicles does not apply to implements of husbandry . . . or farm tractors except as made applicable in this section. However, the movement of implements of husbandry between the retail seller and a farm purchaser or from farm site to farm site or the movement of indivisible implements of husbandry between the place of manufacture and a retail seller or farm purchaser under section 321.453 is subject to safety rules adopted by the department. The safety rules shall prohibit the movement of any power unit towing more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

Despite the exemption of section 321.383(1), a slow-moving vehicle, when operated on the highway, must display a slow-moving vehicle reflective device, Iowa Code § 321.383(2) (1991); Iowa Admin. Code r. 761-452.2(321) (1987), and at least one flashing amber light visible from

the rear of the vehicle from sunset to sunrise. Iowa Code § 321.423(6) (1991); Iowa Admin. Code r. 7761-452.2(321) (1987).

In the present case, slow-moving vehicle signs were posted on the rear of both the tractor and wagon. The accident occurred in daylight. Therefore, the lighting equipment requirement was not applicable. We find no statute or agency rule requiring the placement of lights on the rear of a wagon when it is being pulled from farm site to farm site in daylight.

Ruff also contends under Iowa Code section 321.437, and Iowa Administrative Code 761--450.6(321) and 450.6(2)(b), the tractor should have been equipped with a mirror which would have reflected a view to the rear of the vehicle. We disagree for two reasons.

Section 321.383(1) specifically exempts Fuelling's vehicle from the mirror requirement of section 321.437. To hold otherwise completely disregards the plain meaning of section 321.383(1). See Lyons v. Lange, 447 N.W.2d 407, 409 (Iowa App. 1989). Also, the legislature has provided in section 321.383(1) for the agency to promulgate safety rules governing the movement of implements of husbandry from farm site to farm site. Except for the rules previously discussed, the agency has not promulgated rules covering the movement of implements of husbandry from farm site to farm site. Iowa Administrative Code 761--450.6(321) and subsections thereunder cover safety

requirements for the movement of implements of husbandry by retail sellers and manufacturers. The rules do not address the movement of implements of husbandry from farm site to farm site. We will not write into a law provisions which are not covered by the particular rule. Eittreim v. State Beer Permit Board, 243 Iowa 1148, 1155, 53 N.W.2d 893, 897 (1952). This is a matter for the legislative and administrative process.

Our interpretation is consistent with our holding in Lyons v. Lange, 447 N.W.2d 407 (Iowa App. 1989). In Lyons the plaintiff argued the district court erred in granting the defendant's motion for a directed verdict. The issue before the court was the defendant's failure to comply with lighting requirements of Iowa Code section 321.423(6), as implemented in the Iowa Administrative Code section governing slow-moving vehicles when they are operated on the highway. Id. at 409. We rejected plaintiff's argument. We held Iowa Code sections 321.383(1) and 321.423(6), as implemented by the Administrative Code, excluded tractors towing farm implements from lighting requirements of other vehicles. Id. Here, we likewise hold tractors towing farm implements are excluded from mirror requirements of other vehicles. We affirm on this issue.

Ruff next asserts the district court erred in submitting and refusing to submit certain jury instructions. Ruff raises this issue with respect to a

multitude of instructions and directs the court's attention to forty pages collectively in the record where he claims to have preserved error to the various instructions. Iowa Rule of Appellate Procedure 14(a)(5) requires a reference to the record where the issue was raised and decided. When a party does not refer to the specific page or pages of the record where the issue was raised and decided, the issue will not be considered by the reviewing court.

Ruff next claims the district court erred in excluding the following evidence: certain exhibits, lay opinion evidence regarding what constitutes an intersection, recross-examination of Fuelling, and additional testimony from Ruff. Ruff claims to have preserved error to the exclusion of this evidence "by way of offer of proof and in his Motion of New Trial." With respect to the lay opinion evidence and the recross-examination of Fuelling, neither the offer of proof nor the motion for new trial address this particular issue. Ruff has therefore failed to preserve these issues for review. Ruff cites no authority to support his argument to allow Ruff to retake the witness stand or the relevancy of the exhibits. Failure to cite authority in support of an issue is deemed waiver of that issue. Iowa R. App. P. 24(a)(3).

Ruff next claims the district court committed error by overruling his motion in limine which called for exclusion of evidence of his failure to wear a seat belt. The denial of a motion in limine cannot constitute reversible error.

Yeager v. Durflinger, 280 N.W.2d 1, 5, (Iowa 1979). To preserve the issue proper objections must be timely made at the time the evidence is offered. Id. Ruff failed to do so.

Ruff also claims the district court erred in refusing to admit the record of Fuelling's conviction of a traffic violation. Ruff contends Fuelling denied his guilt at trial and therefore he should have been allowed to enter the record of Fuelling's conviction into evidence. We disagree. First, Ruff's contention is not supported by the record. Fuelling did not deny he entered a plea of guilty to the traffic violation. In fact, Fuelling readily admitted the violation. Second, Iowa Code section 321.489 specifically provides "[n]o record of the conviction of any person for any violation of this chapter shall be admissible as evidence in any court in any civil action."

Finally, Ruff claims the verdict is not supported by evidence. When a verdict is supported by evidence, the trial court cannot substitute its views for those of the jury. Lappe v. Blocker, 220 N.W.2d 570, 573 (Iowa 1974). Evidence is substantial when a reasonable mind would accept it as adequate to reach a conclusion. Johnson, 451 N.W.2d at 171. We view the evidence in a light most favorable to the prevailing party. Id. We find substantial evidence supporting the verdict.

We affirm on all issues. Costs of this appeal are taxed to Ruff.

AFFIRMED.