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IN THE COURT OF APPEALS OF IOWA

LaVERNE L. BOYENS, Appellant, v. PATRICIA RATH, Administrator of the Estate of Robert L. Rath, Deceased; and SPORLEDER, INC., Appellees.	)	Filed December 28, 1977 293 2-58718

Appeal from Shelby District Court - E. F. Hanson, Judge.

Plaintiff appeals from adverse judgment in a negligence action arising out of a three vehicle accident. Affirmed.

Robert Kohorst, of Louis, Moore & Kohorst, of Harlan, for appellant.

Frank W. Pechacek, Jr., of Smith, Peterson, Beckman & Willson, of Council Bluffs, for appellees.

Heard by Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

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PER CURIAM

Plaintiff LaVerne L. Boyens appeals from judgment which in effect denied him recovery from defendants Sporleder, Inc. and the Robert L. Rath estate for damages to his truck tractor and trailer.

The accident out of which this action arose occurred November 15, 1972 on new highway 59, one and one-half miles north of Harlan, Iowa. Plaintiff's driver, Larry Boyens, was proceeding north when he saw a vehicle ahead, approaching in the east, or wrong, lane. Because the night was foggy, plaintiff's driver sighted the approaching vehicle when it was only "about half a block or so" away. (Tr. 17.) The approaching car was owned by James Louis Bluml and driven by Allen Glen Rohe.

The Rohe driven car struck plaintiff's truck tractor on its front left corner, causing the truck's lights to go out and disabling its steering. When the truck came to a rest, it was at a right angle to the direction of travel, and blocked the highway entirely. Thereafter, Sporleder's truck, being driven by Rath, approached the accident scene from the north. Rath was unable to stop in time; the Sporleder truck skidded into plaintiff's trailer, very nearly cutting it in two.

After trial, the court found that the entire sequence of events was caused by Rohe's negligence. It therefore granted judgments in favor of both plaintiff and Sporleder against Rohe, and denied the claims of Boyens and Sporleder inter se.

While plaintiff presents three contentions to support a reversal, a single proposition is capable of justifying trial court's judgment. Trial court found, as a fact, that the second impact occurred "almost immediately" after the first collision. Therefore, the negligence of Rath, if any there was, was not the proximate cause of the second collision. Because the first collision occurred such a short distance in front of Rath, he could not avoid the accident even if his speed was reasonable and proper. Thus, Rath's claimed excessive speed could not be the cause in fact, or sine qua non, of the accident.

This is a law action and findings of fact are binding on us, if supported by substantial evidence. Rule 14(f)(1), Rules of Appellate Procedure; Herman Ford-Mercury, Inc. v. Betts, 251 N.W.2d 492, 493 (Iowa 1977). Questions of proximate cause are for the finder of fact. Rule 14(f)(10), R. App. P.; W. Prosser, Handbook of the Law of Torts § 41 at p. 237 (4th ed. 1971). There was substantial evidence that the second

impact occurred "almost immediately" after the first. Larry Boyens admitted telling Alan Herrick, "It was just about simultaneous, I'd say. I don't know, maybe five seconds. It was just — we had just about stopped it seemed like, and he was coming." (Tr. 40, ll. 19-22.) Trial court could, and in effect did, find as a fact that plaintiff would have sustained harm even if Rath had exercised due care. Therefore, Sporleder and Rath could not be held liable for plaintiff's damages. Cronk v. Iowa Power & Light Co., 258 Iowa 603, 613, 138 N.W.2d 843 (1965); Restatement (Second) of Torts § 432(1) (1965).

This manner of resolution makes unnecessary a discussion of the contentions raised by plaintiff.

AFFIRMED.