**IN THE COURT OF APPEALS OF IOWA**

FILED
AUG 27 1992
CLERK SUPREME COURT

No. 2-046 / 91-953

**DALE V. JENNETT,**

Appellee,

vs.

**KENNETH D. KONGABLE,**

Appellant.

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Appeal from the Iowa District Court for Henry County, Gary R. Noneman, Judge.

Defendant appeals the judgment against him. **AFFIRMED.**

W. Kent Thomson of the Elgar Law Office, Mt. Pleasant, for appellant.

Rande A. McAllister, Mt. Pleasant, for appellee.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ.

**OXBERGER, C.J.**

Dale Jennett's truck stalled, so he parked it on the shoulder of the road. A vehicle driven by Kenneth Kongable struck the parked Jennett truck. The Jennett truck was damaged beyond repair.

Jennett sued Kongable to recover for the loss of his truck. Kongable did not dispute his liability, and the only issue at trial was the amount of Jennett's damages. The suit was tried to the court, which awarded Jennett damages totalling $2688.70. The damage figure included $1275 for the value of the truck and $1350 for the loss of its use, as well as a towing bill for $63.70. In selecting the figure of $1350 for loss of use, the court determined that $15 per day was a fair rental value and that ninety days was a reasonable replacement time. The court multiplied $15 times ninety days to reach the figure of $1350 for loss of use.

Scope of Review: Our scope of review is for the correction of errors of law. Iowa R. App. P. 4.

Damages: The rule for damages relating to motor vehicles "totally destroyed or [where] the reasonable cost of repair exceeds the difference in reasonable market value before and after the injury,...is the lost market value plus the reasonable value of the use of the vehicle for the time reasonably required to obtain a replacement". Long v.

McAllister, 319 N.W.2d 256, 261 (Iowa 1982).

Kongable does not dispute the District Court's determination that the reasonable value of the use of the vehicle is determined by the fair market rental value of a like vehicle. However, Kongable disputes the District Court's finding that ninety days is a reasonable amount of time to obtain a replacement vehicle. Kongable argues a reasonable amount of time is the ten day period between the accident and the settlement offer. We disagree.

Replacing a vehicle is a process which takes time and thought. It involves much more than merely finding something to drive back and forth to work. A reasonable amount of time allows for sound decision making regarding all involved variables. We find ninety days to be reasonable time, within the trial court's discretion, to identify a vehicle, weigh the necessary factors, and make a decision.

In this case, Jennett took 300 days to replace his vehicle. We agree with the District Court that Jennett could have been able obtain a satisfactory replacement vehicle within ninety days. A plaintiff has the duty to minimize his or her damages. Nizzi v. Laverty Sprayers, Inc., 143 N.W.2d 312, 318 (Iowa 1966). Taking nearly one year to find an alternative method of transportation does not satisfy this duty to mitigate damages. We affirm the trial court's decision.

**AFFIRMED.**