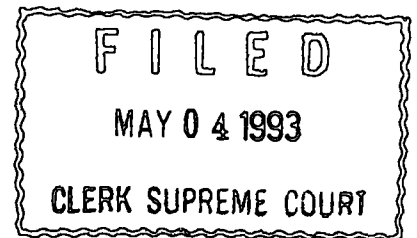


IN THE COURT OF APPEALS OF IOWA

No. 2-522 / 92-73



KIM V. ANDERSON and RICHARD D. ANDERSON,

Appellants,

vs.

COLLECTIVE INVESTMENT MANAGEMENT, LTD., and HERBERT JOE
HEATHCOTE,

Appellees.

Appeal from the Iowa District Court for Polk County,
Gene Needles, Judge.

Plaintiffs appeal the district court's denial of their
motion for a new trial. Plaintiffs claim the jury verdict
that the defendant was not at fault for the automobile
accident was not supported by substantial evidence.
AFFIRMED.

Gerald W. Crawford of Baudino & Crawford, P.C.,
Des Moines, for appellant.

Mark W. Thomas of Grefe & Sidney, Des Moines, for
appellee.

Considered by Schlegel, P.J., and Sackett and Habhab,
JJ.

HABHAB, J.

This case arises out of an accident involving a semi-truck driven by the defendant Herbert Heathcote and a vehicle driven by the plaintiff Kim Anderson.¹ Heathcote and Anderson were both heading westbound on I-235 in Des Moines. They both entered the interstate from the University Avenue entrance which merges with the left lane of I-235.

Heathcote testified he was driving in the far left lane when he saw a stalled motorist with a flat tire in his lane ahead. He saw no cars between him and the stalled motorist. He began to look in his rear-view mirrors so that he could change lanes. He then heard a crash and realized he had struck a car. He claims that the car must have changed lanes suddenly, while slamming on her brakes, causing her vehicle to slide sideways to a stop in the fast lane directly in front of him.

Anderson claims that she entered the interstate in the far left lane and never changed lanes. She claims she was traveling in the left-hand lane when she was forced to slam on her brakes when the car ahead of her did the same. Her brakes locked and she started to skid diagonally. The

1. Collective Investment Management Inc., the owner of the semi-truck, is also a defendant in this action, but we will refer to both defendants as "Heathcote." Richard Anderson, the husband of Kim Anderson, is also a plaintiff in this action, but we will refer to both plaintiffs as "Anderson."

semi-truck struck her from behind as her car was coming to a stop.

The jury returned a verdict in the defendants' favor. Anderson then made a motion for new trial claiming that the jury's verdict was not sustained by sufficient evidence and that it did not effectuate substantial justice. The district court denied the motion. Anderson appeals. We affirm.

The trial court has broad but not unlimited discretion in determining whether the jury verdict effectuates substantial justice between the parties. *Wirtanen v. Provin*, 293 N.W.2d 252, 253 (Iowa 1980); Iowa R. App. P. 14(f)(3). The trial court's discretion will be reversed upon a finding such discretion was abused. *Waddell v. Peet's Feeds, Inc.*, 266 N.W.2d 29, 30 (Iowa 1978). From our review of the record, we find no abuse of discretion.

A jury's findings of fact in a law action are binding on appeal if supported by substantial evidence. Iowa R. App. P. 14(f)(17). Evidence is substantial if a reasonable mind would accept it as adequate to reach a conclusion. *Batsy v. Binns*, 354 N.W.2d 777, 780 (Iowa 1984). A finding may be supported by substantial evidence even if the body of evidence would also support a contrary finding. *Id.*; Iowa R. App. P. 14(f)(17). We find evidence supported the jury finding that Heathcote was not at fault for the accident.

Heathcote testified there were no cars in the left lane between Anderson and the stalled car when his vehicle struck Anderson's car. Anderson testified that she and a car in front of her were traveling in the left lane when Heathcote hit her from behind. The testimony of the two parties was in direct conflict. The jury is the judge of credibility of witnesses and decides what weight to accord each witness's testimony. *Kaiser v. Stathas*, 263 N.W.2d 522, 526 (Iowa 1978). The jury decided that of the two conflicting versions, Heathcote's was more accurate.

The physical evidence also lends support to Heathcote's version. Anderson stated she looked into her rear view mirror and saw the grill and the left headlight of a semi-truck upon her. However, pictures admitted into evidence show that Anderson's vehicle was hit on the driver's side door, not on the back left side. The police report also describes Anderson's car as being sideways, crossing in front of Heathcote's car.

We find there is substantial evidence to support the jury's verdict. In addition, we find the trial court did not abuse its discretion by refusing to grant Anderson's motion for a new trial.

AFFIRMED.