

FILED

MAY 20 1977

CLERK SUPREME COURT

87

IN THE COURT OF APPEALS OF IOWA

JACK I. PHIPPS, SALLY L.	)	
PHIPPS, BOBBIE SWAIN, and	)	
CLAUDIA S. SWAIN,	)	Filed May 20, 1977
Appellants,	)	
vs.	)	
CHARLES MITCHELL and	)	103
EUGENE LUCAS,	)	2-58021
Appellees.	)	

Appeal from Polk District Court - Gibson C. Holliday,
Judge.

Plaintiffs appeal judgment for defendants in suit tried
to the court arising out of personal injuries sustained in
collision of milk truck with stalled vehicle. - Affirmed.

Mike Wilson, of Mike Wilson Law Firm, of Des Moines,
for Appellants.

Philip H. Cless, of Hurlburt, Blanchard, Cless & Porter,
of Des Moines, for Appellees.

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

PER CURIAM

The trial court in his findings of fact found the plaintiffs guilty of contributory negligence that was a proximate cause of the accident and their injuries. We affirm.

Section 619.17, The Code, allows contributory negligence as a defense or complete bar to plaintiff's recovery once the defendant establishes such negligence as a proximate cause of the injury. *Ruan Transport Corp. v. Jacobs*, 216 N.W.2d 182, 185 (Iowa 1974). An examination of the full record reveals substantial evidence to support the trial court's finding. Such finding of fact, therefore, is binding upon the appellate court on review. Rule 344(f)(1), Rules of Civil Procedure.

Since plaintiffs' own negligence bars recovery from the defendant, there is no need to reach the question of whether the defense of sudden emergency is available to the defendant.

Finding no errors at law and substantial support for the findings of fact, we affirm.

Affirmed.