FILED
JUN 24 1977
CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

LOREN CUNNINGHAM,

Appellee,

v.

THERON RENNER & JOHN HAMILTON,

Appellants.

JOHN HAMILTON,

Cross-Petitioner-Appellant,

v.

THOMAS GILBERT COLE,

Defendant to Cross-Petition-Appellee.

Filed June 24, 1977

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2-58938

Appeal from Calhoun District Court - Edward J. Flattery, Judge.

Defendant appeals nonjury verdict in auto-tractor collision. Affirmed.

Thomas McCullough, of McCullough Law Firm, of Sac City, for Plaintiff-Appellee and Defendant to Cross-Petition-Appellee.

Claire F. Carlson, of Kersten, Opheim, Carlson & Estes, of Fort Dodge, for Defendants-Appellants and Cross-Petitioner-Appellant.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

The defendant John Hamilton appeals the trial judge's non-jury verdict in favor of the plaintiff. We affirm.

The review of the record on appeal is in the light most favorable to the judgment. If it is supported by substantial evidence the judgment will not be disturbed on appeal. Rule 344(f)(1), Rules of Civil Procedure.

The trial court could find that Hamilton saw Cunningham's tractor, with flashers working, pulling a stack carrier 3/4 of a mile ahead. Hamilton could not see the driver who was obscured by the stacked hay. Hamilton without reducing his speed pulled into the left lane in order to make certain the way ahead was clear for passing. While Hamilton was in the left lane, Cunningham's driver looked to his rear and did not see any vehicle. He attempted to turn left into a farm driveway and was struck by Hamilton.

We believe it was a fact question whether a reasonable person would have reduced his speed when passing a slow-moving vehicle whose visibility was reduced by a load of hay. The 150 feet of skid marks left by Hamilton plus reaction time could indicate that the turning movement did not occur when Hamilton was even with the rear of the tractor-carrier unit. It was for the fact finder to determine whether a reduced speed under the circumstances would have enabled Hamilton to have control of his vehicle to avoid the left-turning tractor.

It was also for the fact finder to determine whether the tractor driver should have seen Hamilton's vehicle and thus have given a turn signal. A motorist is not required to see everything. He is required to see what a reasonable person would see under the circumstances. It was a fact question whether the tractor driver should have seen a vehicle 150 feet plus to his rear in the left hand lane. The question of proximate cause was for the fact finder.

Affirmed.