

SUPREME COURT OF ARKANSAS

Hall v. W. E. Cox & Sons, 202 Ark. 909

154 S.W.2d 19 (1941) · Decided July 14, 1941

SUMMARY

This case concerns an appeal from a trial court's order granting a new trial in a personal injury action arising from an automobile collision. The jury had returned a verdict for the plaintiff, but the trial court set it aside as against the preponderance of the evidence. The appellate court affirmed, emphasizing the trial court's broad discretion to grant new trials where the evidence is in sharp conflict.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Holt; Humphreys; Mehaffy
JURISDICTION	Arkansas
DECIDED	July 14, 1941
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting a new trial after a jury verdict for the plaintiff.
STANDARD OF REVIEW	Abuse of discretion; the appellate court will not reverse a trial court's order granting a new trial unless the trial court's discretion has been manifestly abused.
PRECEDENTIAL VALUE	Published
PARTIES	J. B. Hall v. W. E. Cox & Sons

TOPICS

- negligence
- personal injury
- motion for new trial
- standard of review
- appellate procedure

PRACTICE AREAS

- Personal Injury
- Appellate Practice
- Civil Procedure

QUESTIONS PRESENTED

- Whether the trial court abused its discretion in granting a new trial when the evidence was in sharp conflict.

2. Whether a general order granting a new trial may be affirmed if it is supported by any ground alleged in the motion.

HOLDINGS

1. The trial court did not abuse its discretion in granting a new trial because the evidence was in sharp conflict, and an order granting a new trial will not be disturbed unless the trial court's discretion has been manifestly abused.
2. A general order granting a new trial without specification of grounds will be affirmed if it can be supported on any ground alleged in the motion, including insufficiency of the evidence.

KEY QUOTATIONS

“It is not invading the province of the jury for the trial judge to set aside its verdict where there is a conflict in the evidence. On the contrary, it is the duty of the trial court to set aside a verdict that it believes to be against the clear preponderance of the evidence.” (202 Ark. at 912)

“Where there is a decided conflict in the evidence this court will leave the question of determining the preponderance with the trial court, and will not disturb his ruling in either sustaining a motion for a new trial or overruling same.” (202 Ark. at 912)

“We cannot say, however, that the trial court abused its discretion in granting the motion for a new trial and setting aside the judgment, the evidence being in sharp conflict on the issue of appellees' negligence.” (202 Ark. at 914)

“Where, however, the order is expressed in general terms, without a specification of the grounds therefor, it will be affirmed if it can be supported on any ground alleged in the motion, even though it is one which is discretionary with the court, as, for instance, the insufficiency of the evidence.” (202 Ark. at 915)

FACTUAL BACKGROUND

Appellant J. B. Hall was a passenger in a car driven by his son, Kenneth Hall, traveling west on Highway 67 in Arkansas. They were followed by a truck driven by appellees' employee Floyd Green. When the car came within about 30 feet of the truck, the truck allegedly stopped suddenly in the middle of the highway without warning, causing a collision. The son testified that he was unable to stop in time. The truck driver testified that he was moving slowly, had given a hand signal, and was on the right side of the road. The evidence was sharply conflicting as to the cause of the collision and whether the truck driver provided a signal.

PROCEDURAL HISTORY

Plaintiff J. B. Hall sued defendants W. E. Cox & Sons for personal injuries sustained in an automobile collision. The jury returned a verdict for Hall for \$750. The trial court granted defendants' motion for a new trial. Hall appealed from that order.

DISPOSITION

affirmed

CASES CITED

- McDonnell v. St. Louis S.W. Ry. Co., 98 Ark. 334, 135 S.W. 925 (1911)
- Taylor v. Grant Lumber Co., 94 Ark. 566, 127 S.W. 962 (1910)
- Blackwood v. Eads, 98 Ark. 304, 135 S.W. 922 (1911)
- Twist v. Mullinix, 126 Ark. 427, 190 S.W. 851 (1915)
- McIlroy v. Arkansas Valley Trust Co., 100 Ark. 596, 141 S.W. 196 (1911)
- Wilhelm v. Collison, 133 Ark. 166, 202 S.W. 28 (1918)
- Mueller v. Coffman, 132 Ark. 45, 200 S.W. 136 (1918)