

SUPREME COURT OF ARKANSAS

Haag v. Morgan

225 Ark. 664 (1955) · Decided December 5, 1955

SUMMARY

The Arkansas Supreme Court affirmed a judgment for the defendant in a personal-injury action arising from an automobile accident involving an allegedly intoxicated driver. The court held that the Arkansas guest statute applied whether the injured passenger was self-invited or invited by the driver and found no reversible error in the challenged jury instructions, including instructions concerning willful and wanton operation, joint enterprise, and contributory negligence.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Sam Robinson, Associate Justice
JURISDICTION	Arkansas
DECIDED	December 5, 1955
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a jury verdict and judgment for the defendant in a personal-injury action arising from an automobile accident.
STANDARD OF REVIEW	The court reviewed the challenged jury instructions and asserted trial-court errors for reversible error.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	William Haag, Patsy Haag v. Morgan

TOPICS

- personal injury
- contributory negligence
- jury instructions
- instructions objections
- statutory interpretation

PRACTICE AREAS

- torts
- personal injury
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Arkansas guest statute applied to Patsy Haag even if she was not a self-invited guest.

2. Whether the trial court erred in instructing the jury on the guest statute, willful negligence, joint enterprise or adventure, and contributory negligence.
3. Whether the challenged instruction improperly commented on the evidence.

HOLDINGS

1. The Arkansas guest statute applies whether the injured passenger was a self-invited guest or was invited by the operator of the automobile.
2. Challenges to the giving of an instruction may not warrant reversal when the alleged error was not properly preserved by objection at trial.
3. The instruction requiring plaintiffs to prove willful and wanton operation and placing on the defendant the burden of proving joint enterprise or contributory negligence was not an improper comment on the evidence.

KEY QUOTATIONS

“However, regardless of whether Mrs. Haag was a self-invited guest or had been invited by the operator of the car, the statute applies.” (225 Ark. 664)

“We have carefully examined all of the points mentioned by appellants on appeal and find no error. The judgment is affirmed.” (225 Ark. 664)

FACTUAL BACKGROUND

Patsy Haag was injured when an automobile driven by Morgan overturned after Morgan allegedly drove while intoxicated at approximately seventy-five miles per hour and failed to negotiate a curve. Morgan and Patsy had spent the day drinking beer and whiskey while riding in Morgan's car. The Haags sought damages, while Morgan relied on the guest statute and contributory negligence defenses.

PROCEDURAL HISTORY

William and Patsy Haag sued Morgan for injuries Patsy sustained while riding in Morgan's automobile. The jury returned a verdict for Morgan, and the trial court entered judgment for the defendant. The Haags appealed, challenging application of the guest statute and several jury instructions; the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Roberson v. Roberson, 193 Ark. 669, 101 S.W.2d 961

OPINION

ROBINSON, J.

Sam Robinson, Associate Justice. This is a personal injury case growing out of an automobile accident. Appellants, William Haag and Ms wife Patsy, filed suit for damages due to injuries sustained by Patsy while an occupant of an automobile driven by appellee Morgan.

The complaint alleges that Morgan, while intoxicated and over the protests of Patsy, was driving the car at about 75 miles per hour and failed to negotiate a curve, thereby causing the car to overturn resulting in serious injuries to Patsy.

In addition to a general denial, the defendant pleaded that Patsy was a guest in the car and further that she was guilty of contributory negligence. The jury returned a verdict for the defendant. On several occasions before the accident, Morgan and Mrs. Haag had been together on drinking parties, and the evidence justifies the conclusion that on the day in question they were again on a mutual drinking spree.

They had met about 10 o'clock in the morning in a place called the Brass Rail, and had some beer. Morgan purchased additional beer which they took with them when they went riding in Morgan's car. Later, after drinking the beer, they stopped at a Mrs. Wright's and got some whiskey. Then they drove up to Missouri, returned to Arkansas, and obtained more whiskey.

Patsy says she did not drink from the last bottle but only pretended to do so. The accident occurred sometime during that afternoon. The court instructed the jury with reference to the guest statute, Ark. Stats., §§ 75-913-14-15. Appellants contend that the statute has no application here in that it only applies to self-invited guests, and that Mrs. Haag did not come within that category.

Appellants further contend that there was error in the giving of certain instructions and the failure to give other instructions. No general objection was made to the giving of any of the instructions. By Instruction No. 3 the court informed the jury as to the proof required in a guest case and defined willful negligence. Appellants requested that the instruction be changed to read ' ' self-invited guests. ' ' However, regardless of whether Mrs. Haag was a self-invited guest or had been invited by the operator of the car, the statute applies.

Roberson v. Roberson, 193 Ark. 669, 101 S. W. 2d 961. Appellants also complain of the giving of an instruction submitting the issue of a joint adventure, but there was no objection to the instruction at the trial. Instruction No. 2 given by the court read's as follows: "In order to recover the plaintiffs must show by a preponderance of the evidence that the defendant willfully and wantonly operated the automobile at' the time of the injuries and that such willful and wanton operation on' his part was the cause of the injuries.

The burden of proof is on the defendant to show by a preponderance or greater weight of the evidence that there was a joint enterprise or adventure or that Patsy Haag was guilty of contributory negligence." Appellants objected specifically that this instruction was a comment on the evidence, but we 'do not think it is subject to that construction.

We have carefully examined all of the points mentioned by appellants on appeal and find no error. The judgment is affirmed.