

SUPREME COURT OF NEBRASKA

Hodgson v. Gladem, 187 Neb. 736

193 N.W.2d 779 (1972) · No. No. 38009 · Decided January 28, 1972

SUMMARY

The Supreme Court of Nebraska affirmed dismissal of the plaintiff's claims and the defendant's cross-claim arising from a motor-vehicle collision at a blind, uncontrolled rural intersection. The court held that both parties were negligent more than slightly as a matter of law, and that the plaintiff's directional right-of-way did not excuse approaching the obstructed intersection at a speed that left no opportunity to observe or react to approaching traffic.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Clinton, Justice; White, C.J.; Spencer, J.; Boslaugh, J.; Smith, J.; McCown, J.; Newton, J.; Clinton, J.
JURISDICTION	Nebraska
DECIDED	January 28, 1972
DOCKET	No. 38009
DISPOSITION	affirmed
PROCEDURAL POSTURE	After the evidence closed in a motor-vehicle collision action, the trial court found both parties contributorily negligent more than slightly as a matter of law and dismissed both the plaintiff's petition and the defendant's cross-petition. The plaintiff appealed.
STANDARD OF REVIEW	Whether the undisputed evidence established contributory negligence more than slight as a matter of law, warranting a directed verdict or dismissal rather than submission to the jury.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Robert L. Hodgson v. Vernon Gladem

TOPICS

- contributory negligence
- negligence
- duty of care
- standard of care
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the plaintiff's directional right-of-way entitled him to proceed through a known blind intersection without reducing speed enough to make effective observations and react to approaching traffic.
2. Whether the undisputed evidence established the plaintiff's contributory negligence more than slight as a matter of law.
3. Whether the trial court properly dismissed both claims after finding both parties negligent more than slightly as a matter of law.

HOLDINGS

1. A driver approaching an unprotected intersection with a known obstructed view must travel at a speed that affords a reasonable opportunity to make effective observations of approaching vehicles and to react appropriately to what is observed or could be observed.
2. The plaintiff was contributorily negligent more than slightly as a matter of law because he approached a known blind intersection at a speed that gave him no opportunity to make effective observations or react appropriately.
3. The trial court correctly found both parties negligent more than slightly as a matter of law and correctly dismissed both the petition and cross-petition.

KEY QUOTATIONS

"We hold that a driver approaching an unprotected intersection where he knows and can readily observe that his view is obstructed must do so at such a speed as will afford him a reasonable opportunity to make effective observations for cars approaching on the intersecting road and give him a reasonable opportunity to properly react to the situation he then observes or could observe, and where his view is completely obstructed and his speed is such that he has given himself no opportunity at all to observe and react appropriately he may, where the facts are undisputed, be found negligent as a matter of law." (783)

"A car approaching an intersection is not in a favored position and entitled to proceed regardless of the circumstances merely because he is on the right of the other car." (782)

FACTUAL BACKGROUND

The parties' vehicles collided at a daylight, dry, unprotected intersection of two graveled county roads. An embankment and dense shelterbelt completely obstructed each driver's view of the other until the vehicles were nearly in the intersection. Both vehicles approached at approximately 40 to 45 miles per hour, and neither driver had sufficient time to take effective evasive action after seeing or being able to see the other vehicle.

PROCEDURAL HISTORY

Hodgson sued Gladem for damage to his vehicle, and Gladem filed a cross-petition seeking personal-injury and vehicle damages. The district court granted the substance of the parties' directed-verdict and dismissal requests by finding both parties negligent more than slightly as a matter of law. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Sanderson v. Westphalen, 178 Neb. 298, 133 N.W.2d 16
- Barajas v. Parker, 165 Neb. 444, 85 N.W.2d 894
- Evans v. Messick
- Miller v. Aitken, 160 Neb. 97, 69 N.W.2d 290
- Whitaker v. Keogh, 144 Neb. 790, 14 N.W.2d 596
- Costanzo v. Trustin Manuf. Corp., 176 Neb. 136, 140, 125 N.W.2d 556