

Commonwealth Of Kentucky

Court Of Appeals

NO. 1999-CA-001840-MR

CHRISTOPHER SININGER

APPELLANT

APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE SHELIA ISAAC, JUDGE
CIVIL ACTION NO. 97-CI-01609

ANNE K. SHARP

APPELLEE

OPINION
AFFIRMING

* * * * *

BEFORE: DYCHE, GUIDUGLI AND TACKETT, JUDGES.

GUIDUGLI, JUDGE. Christopher Sininger (Sininger) appeals from a trial verdict and judgment entered by the Fayette Circuit Court on May 21, 1999, which granted judgment in favor of Anne K. Sharp (Sharp) following a jury trial in which a verdict was returned in Sharp's favor. We affirm.

On January 23, 1996, a vehicle driven by Sharp rear-ended a vehicle driven by Sininger. At the time of the collision, Sininger was stopped at a traffic light. Sharp testified at trial that while she was approaching the intersection, she saw Sininger's car stopped at the traffic light. She had noticed that Sininger's light was green from the time she left the previous intersection, and she assumed that he

was going to proceed. Unfortunately for Sharp, her assumption was wrong and, despite braking, Sharp's vehicle struck Sininger's from behind. When asked at trial what Sininger could have done to avoid the accident, Sharp stated that he should have proceeded through the intersection while his light was green. The jury found in favor of Sharp on the issue of liability and the trial court entered its trial verdict and judgment dismissing Sininger's claim in accordance with the jury's verdict on May 21, 1999. Sininger's motion for JNOV and new trial was dismissed, and this appeal followed.

Sininger's sole argument on appeal is that the trial court erred in refusing to grant a directed verdict in his favor on the issue of liability. Sininger maintains that a directed verdict on the issue of liability must automatically be granted in favor of the plaintiff in cases involving rear-end collisions. This argument is without merit.

A review of Kentucky case law clearly shows that this argument has been addressed and rejected. "Although experience confirms the suggestion that the lay public entertains the notion that the law is automatically against the driver of a vehicle which strikes another from the rear, the simple truth is that the law is not so." Lucas v. Davis, Ky., 409 S.W.2d 297, 299 (1966). "A driver of an automobile that strikes another in the rear is not subject to strict liability, but rather must be proven to have violated the duty of ordinary care before he can be found to be at fault." USAA Casualty Insurance Company v. Kramer, Ky., 987 S.W.2d 779, 782 (1999).

Sininger's reliance on Carlson v. McElroy, Ky. App., 584 S.W.2d 754 (1979) and Geyer v. Mankin, Ky. App., 984 S.W.2d 104 (1998) is misplaced. In Carlson, "the fact that the accident was due to the negligence of McElroy [was] not disputed." Carlson, 584 S.W.2d at 755. In Geyer, summary judgment was granted in favor of the plaintiff as to the issue of liability following the defendant's failure to respond to the plaintiff's motion for summary judgment. Geyer, 984 S.W.2d at 105. Furthermore, a reading of Geyer shows that the propriety of entry of summary judgment in favor of the plaintiff was not raised on appeal.¹

Having considered the parties' arguments on appeal, the trial verdict and judgment entered by the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Rickey D. Bailey
McKinley Morgan
Manchester, KY

BRIEF FOR APPELLEE:

Douglas L. Hoots
Shannon M. Naish
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¹We will not address Sininger's reliance on Davenport v. Ball as that case is not published. We would remind counsel for Sininger that pursuant to CR 76.28(4)(c), "[o]pinions that are not to be published shall not be cited or used as authority in any other case in any court of this state."