

WILLIAMS v. WOOD.

5-2499

351 S. W. 2d 444

Opinion delivered December 4, 1961.

AUTOMOBILES—NEGLIGENCE, WEIGHT AND SUFFICIENCY OF EVIDENCE.—
Plaintiff's testimony that when the defendant drove his truck onto the highway he was so close that the plaintiff had to drive his automobile into a ditch to avoid a collision was sufficient to support a verdict in the plaintiff's favor.

Appeal from Woodruff Circuit Court; *Elmo Taylor*, Judge; affirmed.

Edward V. Trimble and *L. H. Mahon*, for appellant.

Eldridge & Eldridge, by *George P. Eldridge*, for appellee.

SAM ROBINSON, Associate Justice. The only issue here is whether the evidence is sufficient to support the verdict.

On the 28th day of May, 1959, appellant, Bruce Williams, while driving north on a side road, approached Highway No. 38 in Woodruff County near Cache River. When Williams drove onto the highway, appellee, Jack Wood, driving east at about 60 miles per hour, swerved to his left and ran into a ditch, demolishing his car. Bruce Williams and Walter Williams, his son, were engaged in farming, either as partners, or Bruce was the agent of Walter. Bruce had been to a field to see if it was dry enough to plow.

Appellee, Wood, alleged in his complaint and testified that Bruce Williams stopped the truck before driv-

ing onto Highway No. 38, and let another car going east on that highway, pass, but then drove directly out on the highway in front of Wood, when Wood was so close that it was necessary for him to swerve his car and go into the ditch in order to avoid a collision. Williams claims that he did not drive onto Highway No. 38 so far as to cause Wood to drive in the ditch; that Wood's action in going into the ditch was due to his own negligence. Just who was negligent was clearly a question for the jury, and Wood's testimony that Williams drove out in front of him when he was so close that he had to take to the ditch to avoid a collision was sufficient testimony to support the verdict. There is no contention that the judgment in the sum of \$480.00 is excessive.

Affirmed.
