











the gravel shoulder of his extreme right side of the highway and had left all of his front, rear and side lights burning. Thus Woodrow James was certainly in the role of a rescuer and some instruction on the rescue doctrine was clearly pertinent to the situation existing at the time James received his injuries.

3. The third objection offered by appellant to the Instruction No. 6 was “. . . that it unduly singles out for consideration the humanitarian instinct of the driver of the Butane truck, Woodrow James, and Captain and Mrs. Fagan, the driver of the Nash.” We find no merit in this objection. In stopping to render aid, the Fagans and Woodrow James did only what good people have been urged to do ever since the parable of the Good Samaritan as contained in Holy Writ. As previously mentioned, there were many instructions in the case. The Court had prefaced all of them by saying:

“You are instructed that you are not to single out any one of these instructions and consider it alone, but you are to take the instructions altogether and consider them altogether as one harmonious whole as the law in this case.”

Then, after other instructions, the Court had told the Jury:

“If you find from a preponderance of the testimony that Woodrow James was guilty of any negligence and that such negligence was the proximate cause of the collision in which plaintiff’s truck was damaged then you will find for the plaintiff, Woodruff Electric, in such amount as will fairly compensate it, under the other instructions of this Court, unless you should find that the plaintiff was guilty of negligence which caused or contributed in any degree, however slight, to the collision, in which event the plaintiff cannot recover.”

The Court then gave a series of instructions on the applicable traffic Statutes; and in Instruction No. 5, said:

“The Court in these instructions has referred to certain traffic laws of Arkansas. If you find that any





*Ark. Stats., concerning more than three people in the driver's seat of a car.* Appellant says that this instruction should not have been given; but the evidence shows that four men were riding in the front seat of the Woodruff truck at the time it drove into the rear of the Weis Butane truck. One of the four persons testified that he could not see to the left because the head of one of his companions was in the way. In view of this testimony, and other in the record, the case of *Warren v. Hale*, 203 Ark. 608, 158 S. W. 2d 51, is authority for the Court to give the instruction herein challenged.

Affirmed.

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