

MANUEL E. NALL *v.* MRS. VIRGIE C. McDONALD

5-4403

420 S. W. 2d 827

Opinion delivered December 4, 1967

AUTOMOBILES—ACTIONS FOR INJURIES—JUDGMENT & REVIEW.—Where no witness identified appellee as being the owner or driver of any of the vehicles involved in the collision, trial court properly directed a verdict in her favor.

Appeal from Grant Circuit Court, *Henry B. Means*, Judge; affirmed.

*John L. Hughes* and *Ben McCray*, for appellant.

*James C. Cole* and *Bridges, Young & Mathews*, for appellee.

CONLEY BYRD, Justice. Appellant, Manuel E. Nall, appeals from a directed verdict in favor of Mrs. Virgie C. McDonald. The issue is whether there is any substantial evidence to show that Mrs. McDonald was the driver of the automobile that collided head-on with appellant's automobile on his side of the road.

Two witnesses, Jesse Jones and Chester Newman Williams, in addition to Nall himself, testified on behalf of appellant. Nall testified that on his way out of Sheridan, as he crested a hill, he saw a farm tractor pulling piggy-back another farm tractor, headed in the opposite direction; that the tractors had two wheels on and two

off the pavement; and that just as he passed the tractors he saw an automobile, following the tractor, cross to his side of the road. Since he was knocked unconscious, he does not remember anything else that happened at the scene of the accident.

Chester Newman Williams testified that he was driving one tractor and pulling piggy-back the other tractor; that he did not see the collision but heard the impact; and that after parking the tractors he went back to the scene of the accident and found Mr. Nall still in his car and the McDonalds lying side by side in a ditch.

Jesse Jones, a member of the State Police, determined that the McDonald car was traveling behind the tractors; that following the McDonald car were two other vehicles—one being driven by Philander Green and the other being driven by Anderson Thomas; and that according to the debris and physical damages, the Thomas car collided with the Green car, the Green car collided with the McDonald car, and the McDonald car careened across the road into the path of Nall's vehicle.

It will be observed that no witness identified Mrs. Virgie C. McDonald as being either the owner or the driver of any of the vehicles involved in the collisions. Under these circumstances we hold that the trial court properly directed a verdict in favor of Mrs. McDonald.

Affirmed.