

DEFENDANT'S REQUESTED CHARGE NUMBER ONE

I charge you, Ladies and Gentlemen of the jury, that Title 36, Section 25(a) of the Code of Alabama of 1940 as amended provides as follows:

§25. Stopping on highways.- (a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of any highway, outside of a business or residence district, when it is practicable to park or leave such vehicle standing off of the paved or improved or main traveled portion of such highway; provided, in no event shall any person park or leave standing any vehicle, whether attended, or unattended, upon any highway unless a clear and unobstructed width of not less than fifteen feet upon the main traveled portion of said highway opposite such standing vehicle shall be left for free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of two hundred feet in each direction upon such highway. . . .

(c) The provisions of this section shall not apply to the driver of any vehicle nor to any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impractical to avoid stopping and temporarily leaving such vehicle in such position. . . .

Given X

Refused

W. L. Vay

DEFENDANT'S REQUESTED CHARGE NUMBER TWO

The Court charges the jury that if you are reasonably satisfied from all of the evidence in this case that the Plaintiff in this case, John P. Kenny, Jr., at the time and place alleged in his Complaint stopped his motor vehicle on the main traveled portion of a public highway and if you are further reasonably satisfied that at said time and place there was not left remaining 15 feet of the main traveled portion of the highway opposite his vehicle, then I charge you that you must consider whether at said time and place his vehicle was disabled to such extent that it was impractical to avoid stopping in the main traveled portion of the highway. If you are further reasonably satisfied from all of the evidence that his vehicle was not disabled or that it was disabled, but not to such extent that it was impractical to park off of the main traveled portion of the highway, then the Plaintiff would be guilty of negligence.

Given

Refused

W. H. Hany

DEFENDANT'S REQUESTED CHARGE NUMBER THREE

The Court charges the jury that if you are reasonably satisfied from all of the evidence in this case that the Plaintiff, John P. Kenny, Sr., at the time and place alleged in his Complaint stopped or parked his vehicle in the main traveled portion of a public road where the accident happened leaving less than 15 feet of unobstructed main traveled portion of the highway opposite his vehicle and that at said time and place his vehicle was not disabled to such an extent that it was impractical to avoid stopping in the highway, then the Plaintiff would be guilty of negligence, and if you are further reasonably satisfied that such negligence, if any, combined or concurred with any negligence that you find to have been committed by the Defendant to proximately cause any of the injuries alleged to have been suffered by the Plaintiff, then the Plaintiff would be guilty of contributory negligence and can not recover of the Defendant in this case.

Given

Refused

W. L. Hany

PLAINTIFF'S REQUESTED CHARGE NO. /

The Court charges the jury that any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of any other conditions then existing and no person shall drive any vehicle upon a highway at such speed as to endanger the life, limb or property of any person.

Given
W. H. H.

PLAINTIFF'S REQUESTED CHARGE NO. 2

The Court charges the jury that when the two automobiles are being driven along a public highway in the same direction, the driver of the front car owes no duty to the rear car except to exercise reasonable care in the operation of his automobile, and until he has been made aware of it, by signal or otherwise, he may assume either that there is no other automobile in his rear or that, being there, it is under such control as not to interfere with his use of the road in any lawful manner.

Given
W. H. Day

PLAINTIFF'S REQUESTED CHARGE NO. 3

The Court charges the jury that a motorist is chargeable with knowledge of what prudent and vigilant drivers would have seen, and is negligent if he fails to discover a vehicle which he could, in the exercise of reasonable care, have discovered in time to avoid injury.

The Court further charges the jury that if Charlotte Mullins at the time and place described in the complaint failed to discover the vehicle which John Kenny was operating, which she could in the exercise of reasonable care have discovered in time to avoid injury, Charlotte Mullins, was guilty of negligence.

Given
W. H. Hays

PLAINTIFF'S REQUESTED CHARGE NO. 4

The Court charges the jury that a motorist operating a motor vehicle on a public highway in the State of Alabama is under a duty to exercise due care to anticipate the presence of others on the highway so as not to inflict injury or death upon another, and such motorist would be guilty of negligence if he fails to exercise reasonable care to discover a person in the highway whom he could have discovered in time to avoid inflicting injury or death upon such person.

Given
W. H. Hay