Circuit Court for Prince George's County
Case No. CAL16-27604

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2230

September Term, 2017

PATRICIA FLEMMING

v.

VALLEY PROTEINS, INC., *et. al.*

Graeff,
Friedman,
Beachley

JJ.

Opinion by Friedman, J.

Filed: July 8, 2019

In a jury trial, when considering a motion for judgment at the close of the plaintiff's case, the court is required to "consider all evidence and inferences in the light most favorable to the party against whom the motion is made." MD. RULE 2-519(b). Here there was evidence, which taken in a light most favorable to the plaintiff, constituted an admission of liability by one of the defendants. The court thus erred in granting the motion for judgment and should have let the case proceed.

BACKGROUND

This case concerns a motor vehicle accident on the Washington Beltway. Two vehicles were travelling side by side: (1) a truck owned by Valley Proteins, Inc. and driven by its employee, Benjamin Dorsey, occupied the second lane from the right; and (2) a car driven by Keacha Medley, in which Patricia Flemming was a passenger, occupied the right lane. The two vehicles made contact and Medley's car spun and eventually hit a barrier. As a result, Flemming suffered bodily injury and lost wages.

Plaintiff's theory of the case was that Dorsey strayed into the right lane and struck Medley's car. None of plaintiff's witness, however, saw Dorsey change lanes. Flemming testified that she did not see Dorsey's truck before the accident. Medley testified that she did not leave her lane and that she did not see Dorsey leave his. Nevertheless, Flemming testified that Dorsey admitted his culpability in the accident, saying at the scene: "I didn't see you. It's my fault." Medley also testified to Dorsey's admission, although in slightly different terms. On that record, the trial court granted defendants' motion for judgment.

DISCUSSION

As noted above, when faced with a motion for judgment at the close of the plaintiff's case in a jury trial, the trial court is required to "consider all evidence and inferences in the light most favorable to the party against whom the motion is made." MD. RULE 2-519(b). Here, evidence of Dorsey's admission, even though contested,[1] was sufficient to require the trial judge to deny the motion.[2] *Barrett v. Nwaba*, 165 Md. App. 281, 296 (2005) ("if there be any evidence, however slight, legally sufficient as tending to prove negligence ... the weight and value of such evidence will be left for the jury") (cleaned up).

JUDGMENT REVERSED. CASE REMANDED TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.

[1] Flemming testified that she was not "in tune" with what Dorsey was saying. While a jury might discount her reporting of a conversation that occurred while she wasn't "tuned in," on a motion for judgment, the court cannot. *See* MD. RULE 2-519(b).

[2] Appellant also suggests that the motion for judgment should have been denied on the basis of the doctrine of *res ipsa loquitor*. Although because of our resolution of the case we need not reach the issue, we cannot help but explain that this doctrine does not apply here. The doctrine applies only in exceptional cases, in which the particular type of accident would not occur in the absence of negligence. *D.C. v. Singleton*, 425 Md. 398, 407-09 (2012). Here, where the accident might have occurred in the absence of fault by Dorsey—if for example, Medley had changed lanes—the doctrine of *res ipsa loquitor* has no application.