

**AETNA CAS. & SUR. CO. V. WOOLLEY, 1972-NMCA-002, 83 N.M. 397, 492 P.2d
1260 (Ct. App. 1972)**

**AETNA CASUALTY & SURETY CO. and CHARLES LESLIE HARRIS,
Plaintiffs-Appellees,
vs.
CLYDE M. WOOLLEY, Defendant-Appellant**

No. 744

COURT OF APPEALS OF NEW MEXICO

1972-NMCA-002, 83 N.M. 397, 492 P.2d 1260

January 07, 1972

Appeal from the District Court of Roosevelt County, Blythe, Judge

COUNSEL

FRED T. HENSLEY, Portales, New Mexico, Attorney for Appellees.

JAMES C. COMPTON, Portales, New Mexico, Attorney for Appellant.

JUDGES

HENDLEY, Judge, wrote the opinion.

WE CONCUR:

Lewis R. Sutin, J., Ray C. Cowan, J.

AUTHOR: HENDLEY

OPINION

HENDLEY, Judge.

{1} Defendant appeals an adverse judgment arising out of an automobile collision. He contends the trial court's findings of fact are not supported by substantial evidence and that the trial court should have adopted defendant's requested conclusions of law.

{2} We affirm.

{3} On appeal we view the evidence in the light most favorable to the successful party to see whether there is substantial evidence to support the findings. *Martinez v. Sears, Roebuck and Co.*, 81 N.M. 371, 467 P.2d 37 (Ct. App. 1970). It is the function of the fact finder to weigh the evidence and decide on the credibility of the witnesses. *Svejcara v. Whitman*, 82 N.M. 739, 487 P.2d 167 (Ct. App. 1971). Although there is conflicting testimony there is substantial evidence in the record to support the trial court's findings.

{4} Defendant's requested conclusions of law are predicated on his contentions that the trial court's findings of fact are not supported by the record. Conclusions of law which are supported by findings of fact, which in turn are supported by substantial evidence, will not be disturbed on appeal. *Yates v. Ferguson*, 81 N.M. 613, 471 P.2d 183 (1970).

{5} Affirmed.

{6} IT IS SO ORDERED.

WE CONCUR:

Lewis R. Sutin, J., Ray C. Cowan, J.