

1. Able Trucking Corporation files a suit in a state court against Bob's Service Company (BSC), and wins. BSC appeals the court's decision, asserting that the evidence presented at trial to support Able Trucking's claim was so scanty that no reasonable jury could have found for the plaintiff. Therefore, argues BSC, the appellate court should reverse the trial court's decision. Is the appellate court likely to reverse the trial court's findings with respect to the facts? Explain.

ANSWER:

An appellate court will reverse a lower court's decision on the basis of the facts only when the finding is **clearly erroneous** (that is, when it is contrary to the evidence presented at trial) or when there is no evidence to support the finding. Appellate courts normally defer to a trial court's decision with regard to the facts of a case, however, for several reasons. First, trial court judges and juries have the opportunity to observe witnesses and tangible evidence first hand. The appellate court sees only a cold record of the trial court proceedings and therefore cannot make the kind of judgments about the credibility of witnesses and the persuasiveness of evidence that can be gleaned only from firsthand experience. Second, as occurs when there is no jury and the case is heard by a judge, trial judges routinely sit as fact finders. As a result, they develop a particular expertise in determining what kind of evidence and testimony is reliable and what kind is not.