

Court of Appeals, State of Michigan

ORDER

Lillian Bunch v Auto Club Group Insurance Company

Docket No. 330166

LC No. 14-007644-NF

Kirsten Frank Kelly
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court orders that the July 31, 2015 order denying defendant's motion for summary disposition is REVERSED. The exceptions in MCL 500.6106(1) do not apply. Plaintiff's injury from striking her head with the lid of the trunk was not the direct result of physical contact with property being loaded or unloaded from the vehicle. Even accepting as true that plaintiff was holding a bag of groceries in her hand during the December 23, 2013 incident, her injury did not directly result from that contact. Cf. *Adanalic v Harco Nat'l Ins Co*, 309 Mich App 173, 182-183; 870 NW2d 731 (2015). Moreover, plaintiff's injury was not the direct result of physical contact with "equipment permanently mounted on the vehicle . . ." because the trunk lid and its handle are a constituent part of the vehicle—not equipment. *Frazier v Allstate Ins Co*, 490 Mich 381, 384-385; 808 NW2d 450 (2011). Plaintiff's injury did not occur while she was "occupying" the vehicle inasmuch as she was standing outside of it. *Auto Club Ins Assoc v Mich Mut Ins Co*, 197 Mich App 275, 278; 494 NW2d 822 (1992). The injury did not occur as she was "entering into" the vehicle where there is no indication that she intended to go into the trunk. Cf. *Teman v Transamerica Ins Co of Mich*, 123 Mich App 262; 333 NW2d 244 (1983).

The motion to file a late reply is GRANTED, and the reply filed with the motion is accepted.

This order is to have immediate effect.

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

APR 14 2016

Date


Chief Clerk