

STATE OF MICHIGAN
COURT OF APPEALS

EDWARD J. UTLEY,

UNPUBLISHED
April 26, 1996

Plaintiff-Appellee,

v

No. 173391
LC No. 90-003372-NI

MICHIGAN MUNICIPAL RISK MANAGEMENT
AUTHORITY,

Defendant-Appellant,

and

CITY OF STERLING HEIGHTS,

Defendant.

Before: Jansen, P.J., and McDonald and D.C. Kolenda,* JJ.

PER CURIAM.

Defendant Michigan Municipal Risk Management Authority appeals as of right from a final judgment entered on February 10, 1994, in plaintiff's favor in this first party no-fault benefits case. We affirm.

Defendant specifically appeals from an April 7, 1992, order granting plaintiff partial summary disposition. In that order, the trial court found that plaintiff, who was injured while riding his motorcycle, was entitled to no-fault benefits because defendant's city-owned pickup truck was involved in the accident. On appeal, defendant argues that the trial court erred, as a matter of law, in finding that the motorcycle was involved in a motor vehicle accident for purposes of triggering liability for no-fault insurance benefits. We find no error.

* Circuit judge, sitting on the Court of Appeals by assignment.

The parties stipulated to the statement of facts before trial. The accident occurred on May 7, 1990, at approximately 7:30 a.m. Martin Sowa, a City of Sterling Heights employee, was driving a city-owned pickup truck on Eighteen Mile Road. Sowa was forced to come to a stop as he approached Utica Road. Plaintiff, who was riding a motorcycle, was behind Sowa's truck. Plaintiff looked down at his speedometer. When he looked up again, plaintiff noticed the stopped truck and applied his brakes. Plaintiff lost control of his motorcycle, which fell on its side and slid toward the truck.

Plaintiff filed suit in the Macomb Circuit Court for first party no-fault benefits. He alleged that his injuries were caused by an accident arising out of the ownership, maintenance, or use of a motor vehicle owned by the city. Defendant, the city's insurer, moved for summary disposition, arguing that plaintiff had failed to show that his injuries arose out of an accident involving a motor vehicle within the meaning of MCL 500.3101; MSA 24.13101. The trial court ultimately granted partial summary disposition in plaintiff's favor pursuant to MCR 2.116(C)(9) and (10), finding that the truck was involved in the accident so that plaintiff was entitled to no-fault benefits. The only issue to be determined at trial was the amount of damages. The matter then went to a bench trial, and the trial court found defendant liable for damages amounting to \$60,000.

Generally, a person injured while driving a motorcycle is unable to recover no-fault benefits because motorcycles are excluded from the definition of motor vehicles under the no-fault act. MCL 500.3101(2); MSA 24.13101(2). However, a motorcycle involved in an accident with a motor vehicle as defined under the no-fault act may recover benefits from the vehicle owner. MCL 500.3114(5); MSA 24.13114(5). Under § 3101(2)(f), the motor vehicle involved (here, the pickup truck) must be found to be sufficiently "involved" in a "motor vehicle accident" to trigger liability.

The test for determining whether a motor vehicle was involved in a motor vehicle accident is whether there was a causal connection between the injury sustained and the ownership, maintenance, or use of the automobile, and which causal connection is more than incidental, fortuitous, or but for. The injury must be foreseeably identifiable with the normal use, maintenance, and ownership of the motor vehicle. *Greater Flint HMO v Allstate Ins Co*, 172 Mich App 783, 787; 432 NW2d 439 (1988). The motor vehicle involved need not be the proximate cause of the injury, there need only be a causal connection. *Id.* Further, it is not necessary that the motorcycle actually touch or come in contact with the motor vehicle involved, so long as the necessary causal connection is established. *Bromley v Citizens Ins Co of America*, 113 Mich App 131, 135; 317 NW2d 318 (1982).

We agree with the trial court that there was a sufficient causal connection in this case between plaintiff's injuries and the pickup truck. The pickup truck's stop for traffic was in the normal course of driving. Further, there was a clear causal nexus between the injury sustained and the use of the pickup truck where plaintiff had to apply his brakes when he saw that the pickup truck in front of him was stopping. The trial court did not err in finding that defendant's pickup truck was involved in the accident so that plaintiff is entitled to no-fault benefits. See *Greater Flint HMO, supra*, p 788; *Bradley v Detroit Automobile Inter-Insurance Exchange*, 130

Mich App 34, 42-43; 343 NW2d 506 (1983); *Dep't of Social Services v Auto Club Ins Co*, 173 Mich App 552, 558-559; 434 NW2d 419 (1988).

Affirmed.

/s/ Kathleen Jansen
/s/ Gary R. McDonald
/s/ Dennis C. Kolenda