

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT WILSON and DOROTHY WILSON,

Plaintiffs-Appellees,

v

LAKE COUNTY ROAD COMMISSION and
LAWREL TROWBRIDGE,

Defendants-Appellants.

UNPUBLISHED
September 29, 2005

No. 254183
Lake Circuit Court
LC No. 00-005307-NI

Before: Saad, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Defendants appeal from the trial court order denying their motion for summary disposition under MCR 2.116(C)(7). We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Robert Wilson and his wife, plaintiff Dorothy Wilson, sued defendants for negligent operation of a motor vehicle under the motor vehicle exception, MCL 691.1405, to governmental immunity, MCL 691.1407, as contained in the Governmental Tort Liability Act (“GTLA”), MCL 691.1401 *et seq.* Robert Wilson alleged that he was physically injured when a snow plow, owned by defendant Lake County Road Commission and driven by defendant Lawrel Trowbridge, an employee of the Commission, threw a plume of snow on him that knocked him down while he was clearing his driveway of snow. Robert Wilson sued for bodily injury and for some injuries that may be considered non-bodily injuries, such as “mental anguish” and “loss of enjoyment of life.” Dorothy Wilson was not present at the incident. Her sole claim for loss of consortium was derivative of her husband’s claim.

Defendants moved for summary disposition under MCR 2.116(C)(7) with regard to plaintiffs’ claims for damages based on non-bodily injuries. Defendants argued that the motor vehicle exception to governmental immunity imposes liability on governmental agencies only for bodily injury and property damage. They contended that Dorothy Wilson’s claim for loss of consortium was not a claim for bodily injury and that some of Robert Wilson’s claims, such as “loss of enjoyment of life,” were not based on bodily injury. The trial court denied defendants’ motion, relying on *Longworth v Michigan Dep’t of Highways and Transportation*, 110 Mich App 771; 315 NW2d 135 (1982), for its holding that a claim of loss of consortium was permitted under the highway exception to governmental immunity. MCL 691.1402.

On appeal, defendants argue that the plain language of the motor vehicle exception to governmental immunity precludes recovery for claims of non-bodily injury, including claims of consortium. We agree.

Resolution of this issue turns on the interpretation of a statute, which presents a question of law that is reviewed de novo on appeal. *Eggleston v Bio-Medical Applications of Detroit, Inc*, 468 Mich 29, 32; 658 NW2d 139 (2003); *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 98; 693 NW2d 170 (2005).

The motor vehicle exception, MCL 691.1405, provides, in part:

Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner . . .

The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *Neal v Wilkes*, 470 Mich 661, 665; 685 NW2d 648 (2004). The first criterion in determining intent is the specific language of the statute. *Halloran v Bhan*, 470 Mich 572, 577; 683 NW2d 129 (2004). If the plain and ordinary meaning of the language is clear and unambiguous, the Legislature is presumed to have intended the meaning expressed and judicial construction is normally neither necessary nor permitted. *Nastal v Henderson & Assoc Investigations, Inc*, 471 Mich 712, 720; 691 NW2d 1 (2005); *Toth v AutoAlliance International (On Remand)*, 246 Mich App 732, 737; 635 NW2d 62 (2001).

The specific language of the motor vehicle exception to governmental immunity is clear in that that governmental agencies are only liable for “bodily injury and property damage.” The trial court found that the “bodily injury” language should be broadly construed to include non-bodily injuries including claims for loss of consortium.

Exceptions to governmental immunity are narrowly construed. *Stanton v Battle Creek*, 466 Mich 611, 617; 647 NW2d 508 (2002); *Nawrocki v Macomb Co Rd Comm’n*, 463 Mich 143, 159; 615 NW2d 702 (2000). The *Longworth* decision acknowledged the validity of the principle of “strict construction” but concluded that it should not apply where the Legislature has indicated its intent to effectuate a broad waiver of governmental immunity. *Longworth, supra* at 780. The Court concluded that the Legislature intended a broad waiver because the purpose of the exceptions to governmental immunity was to place governmental units and agencies on an equal footing with private tortfeasors. *Id.* at 780-781.

We are not required to follow *Longworth* as it was issued prior to November 1, 1990. MCR 7.215. In addition, in *Nawrocki*, the Supreme Court essentially rejected the rationale of *Longworth* by concluding that exceptions to governmental immunity are narrowly construed and explaining that the purpose of such exceptions is not to place governmental agencies on an equal footing with private tortfeasors. *Nawrocki, supra* at 148-150, 158-159.

The *Longworth* court relied on *Endykiewicz v State Hwy Comm*, 414 Mich 377; 324 NW2d 755 (1982). In *Endykiewicz*, the Court noted that the language of the highway exception did not provide for damages for non-bodily injury, but the Court, nevertheless, concluded that

the plain language of the immunity statute did not need to be narrowly construed and permitted the award of damages for a loss of consortium. *Id.* at 383. *Endykiewicz* is distinguishable from the present case because it also involved a claim under the Wrongful Death Act, which specifically provided for damages other than bodily injury. MCL 600.2922. Further, in *Scheurman v Dept of Transportation*, 434 Mich 619, 628 n18; 46 NW2d 66 (1990), the Court expressly modified *Endykiewicz's* refusal to strictly construe the immunity act.

Nawrocki and other recent authority from our Supreme Court have rejected the rationale for a broad construction of exceptions to governmental immunity, and have concluded that that the exceptions to governmental immunity should be narrowly construed. Applying a narrow construction, the motor vehicle exception, MCL 691.1405, to the grant of governmental immunity, MCL 691.1407, imposes liability for bodily injury or property damage, not other non-bodily injuries. Accordingly, we reverse the order of the trial court denying defendants' motion for summary disposition with regard to plaintiffs' claims that do not involve bodily injury and remand for further proceedings.

Reversed and remanded. We do not retain jurisdiction.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Jane E. Markey