

STATE OF MICHIGAN
COURT OF APPEALS

JOHN REEKWALD,

Plaintiff-Appellant,

v

L.E. BEST TRANSPORTATION, INC., LANICE
EDDINGTON and PAMELA WATERS,

Defendants-Appellees.

UNPUBLISHED

November 26, 2002

No. 236802

Oakland Circuit Court

LC No. 00-021092-NI

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

PER CURIAM.

Plaintiff appeals by right from a circuit court order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action to recover damages for injuries sustained in an automobile accident. The trial court dismissed his complaint, finding that plaintiff's injury did not meet the serious impairment threshold.

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co*, 460 Mich 446, 455; 597 NW2d 28 (1999).

A person is subject to tort liability for automobile negligence if the injured person "suffered death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). A serious impairment of body function is defined as "an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life." MCL 500.3135(7). Whether a person suffered a serious impairment of body function is a question of law for the court if there is no factual dispute about the nature and extent of the plaintiff's injuries or there is a factual dispute but it is not material to the

determination whether the plaintiff suffered a serious impairment of body function. MCL 500.3135(2)(a). Because the statutory definition of serious impairment of body function is the same as that adopted in *Cassidy v McGovern*, 415 Mich 483, 505; 330 NW2d 22 (1982), it is appropriate to refer to *Cassidy* and cases decided thereunder in deciding this case. *Kern v Blethen-Coluni*, 240 Mich App 333, 342; 612 NW2d 838 (2000).

The trial court apparently assumed that plaintiff had suffered an objectively manifested injury that impaired an important body function, but found that the injury did not affect plaintiff's ability to lead his normal life. We agree. Plaintiff did not undergo extensive medical treatment and continued to work full-time, missing only two full days of work. He had minor limitations using his left hand and stopped playing golf for a time. Despite some pain and occasional headaches, plaintiff had since resumed his normal activities, albeit to a lesser extent than previously. We find that reasonable minds could not differ in concluding that plaintiff's injury did not affect his general ability to lead his normal life. *Miller v Purcell*, 246 Mich App 244, 249-250; 631 NW2d 760 (2001); *Franz v Woods*, 145 Mich App 169, 177; 377 NW2d 373 (1985); *Denson v Garrison*, 145 Mich App 516, 520; 378 NW2d 532 (1985). Therefore, the trial court did not err in granting defendants' motion.

We affirm.

/s/ Jane E. Markey

/s/ Henry William Saad

/s/ Michael R. Smolenski