

STATE OF MICHIGAN  
COURT OF APPEALS

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TRACEY LAROCK, Personal Representative of  
the ESTATE OF IVORY R. IVEY,

UNPUBLISHED  
September 18, 2014

Plaintiff-Appellant,

v

No. 311059  
Wayne Circuit Court  
LC No. 12-001913-NI

CITY OF DETROIT, DERRICK GROCHOWSKI,  
VINCENT GIBSON, LARRY GASSEL,  
JOHN DOE 1, and JOHN DOE 2,

Defendants-Appellees.

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Before: OWENS, P.J., and JANSEN and O'CONNELL, JJ.

PER CURIAM.

Plaintiff's decedent suffered smoke and soot inhalation during a house fire and died from her injuries the following day. Plaintiff sued the City of Detroit and several Detroit Fire Department employees for wrongful death. Plaintiff appeals by right the trial court's grant of summary disposition in favor of defendant City of Detroit pursuant to MCR 2.116(C)(7). We affirm.

We review *de novo* the trial court's decision on a motion for summary disposition. *Latham v Barton Malow Co*, 480 Mich 105, 111; 746 NW2d 868 (2008). Under the Governmental Tort Immunity Act, MCL 691.1401 *et seq.*, a governmental agency is immune from tort liability, with certain limited exceptions, if it is engaged in the exercise or discharge of a governmental function. The motor-vehicle exception to the general rule of governmental immunity is found in MCL 691.1405, which provides in relevant 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 . . . .

This exception must be narrowly construed. *Curtis v City of Flint*, 253 Mich App 555, 560; 655 NW2d 791 (2002).

Our Supreme Court has held that, for purposes of MCL 691.1405, the term "operation" contemplates "the ordinary use of the vehicle *as* a motor vehicle" and only "encompasses

activities that are directly associated with the driving of a motor vehicle.” *Chandler v Muskegon Co*, 467 Mich 315, 320-321; 652 NW2d 224 (2002).

In the present case, at least three firefighting units arrived on the scene, including one that was relatively small compared to the other traditional fire trucks. The unit in question was designed to extinguish smaller fires, such as car fires, and lacked extension ladders. Plaintiff alleges that the unit in question also had neither a working water pump nor a certified operator on the night in question, and that driving it to the scene of the fire in that condition constituted the negligent operation of a motor vehicle causing the death of plaintiff’s decedent.

Hoisting extension ladders and pumping water through fire hoses are not activities directly associated with the operation of a motor vehicle *as* a motor vehicle. Even if they were, neither of those activities occurred with respect to the firefighting unit at issue in this case. Accepting plaintiff’s allegations as true, defendant simply was not operating the fire truck as a motor vehicle at the time of plaintiff’s injury. See *id.* at 321-322. Viewing the facts in the light most favorable to plaintiff as the nonmoving party, the motor-vehicle exception does not apply in this case and plaintiff’s claim is barred by governmental immunity. MCR 2.116(C)(7).

Affirmed.

/s/ Donald S. Owens  
/s/ Kathleen Jansen  
/s/ Peter D. O’Connell