

STATE OF MICHIGAN
COURT OF APPEALS

SAIDA SADIK,

Plaintiff-Appellant,

v

JENNIFER SOLBERG and ROBERT SOLBERG,

Defendants-Appellees.

UNPUBLISHED
September 3, 1999

No. 209092
Wayne Circuit Court
LC No. 97-718195 NI

Before: Markman P.J., and Saad and P. D. Houk*, JJ.

PER CURIAM.

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

Plaintiff's vehicle was struck from the rear when a vehicle driven by Jennifer Solberg and owned by Robert Solberg struck another vehicle stopped behind plaintiff. Plaintiff was treated in the emergency room, where she was diagnosed with musculoskeletal pain. Her neurological examination was normal; however, x-rays revealed degenerative disc disease. An EMG performed one month after the accident revealed bilateral carpal tunnel syndrome. An MRI performed ten months after the accident revealed lumbar disc herniation.

Plaintiff filed suit alleging negligent operation of the Solberg vehicle resulting in severe and permanent injuries. Defendants moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that plaintiff did not sustain a serious impairment of body function as a matter of law. MCL 500.3135(2); MSA 24.13135(2). The trial court granted the motion, finding that no evidence created an issue of fact as to whether plaintiff's disc herniation or carpal tunnel syndrome were causally related to the accident.

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

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

A serious impairment of body function is "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); MSA 24.13135(7). MCL 500.3135(2); MSA 24.13135(2) specifies when the determination of whether an injury constitutes a serious impairment of body function is a question of law for the court, and reads in part as follows:

(2) For a cause of action for damages pursuant to subsection (1) filed on or after 120 days after the effective date of this subsection, all of the following apply:

(a) The issues of whether an injured person has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(i) There is no factual dispute concerning the nature and extent of the person's injuries.

(ii) There is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination as to whether the person has suffered a serious impairment of body function or permanent serious disfigurement.

Plaintiff argues that the trial court erred by granting defendants' motion for summary disposition. We disagree and affirm. Plaintiff produced no evidence that established that a genuine issue of fact existed as to whether her herniation and carpal tunnel syndrome were proximately caused by the accident. Establishing proximate cause requires proof of two elements: (1) cause in fact, and (2) legal cause. *Skinner v Square D Co*, 445 Mich 153, 162-163; 516 NW2d 475 (1994). No medical evidence indicated that plaintiff's herniation and carpal tunnel syndrome were causally related to the accident. An equally if not more plausible explanation for the herniation was plaintiff's pre-existing degenerative disc disease. Similarly, plaintiff's carpal tunnel syndrome was likely caused by her long-term use of computer equipment in her employment. A claimant must present evidence that would allow a finder of fact to conclude that it was more likely than not that but for the defendant's conduct, the injury would not have occurred. *Skinner, supra*, at 164-165. Plaintiff did not create a question of fact regarding causation; the trial court correctly decided the issue as one of law. MCL 500.3135(2)(a)(i); MSA 24.13135(2)(a)(i); *Reeves v K-Mart Corp*, 229 Mich App 466, 480; 582 NW2d 841 (1998).

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk