

STATE OF MICHIGAN
COURT OF APPEALS

BERNICE THOMAS,

Plaintiff-Appellant,

V

ALVIN SISTRUNK, DERETHA SISTRUNK,
REGINALD LEWIS, CITY OF PONTIAC, CITY
OF PONTIAC DEPARTMENT OF
SANITATION, and TELETYPEWRITER
SUPPLIES CO., LLC, d/b/a TPS CO., LLC,

Defendants-Appellees.

UNPUBLISHED

May 20, 2003

No. 234847

Oakland Circuit Court

LC No. 1999-018905-NI

Before: Fitzgerald, P.J., and Talbot and Wilder, JJ.

PER CURIAM.

Plaintiff appeals by right from a circuit court order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

Plaintiff filed this action to recover damages for injuries sustained in an automobile accident. The circuit court dismissed her complaint, finding that plaintiff had failed to meet the injury threshold requirement of the Michigan no-fault statute, MCL 500.3135(1).

The circuit court's ruling on a motion for summary disposition is reviewed de novo. *Gibson v Neelis*, 227 Mich App 187, 189; 575 NW2d 313 (1997). Summary disposition may be granted where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10).

A tortfeasor is liable for noneconomic damages for automobile negligence if the injured party suffers "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 if there is a dispute but it is not material to determination of serious impairment of body function. MCL 500.3135(2)(a).

The evidence in this case established that plaintiff had right knee pain, swelling, joint effusion, crepitation and arthritis before the accident. Plaintiff's doctor concluded that her ongoing problems with her right knee were most likely the result of rheumatoid arthritis. A doctor must be able to literally or substantively indicate the degree of injury to satisfy the threshold requirement. *Churchman v Rickerson*, 240 Mich App 223, 231; 611 NW2d 333 (2000). Here, plaintiff's doctor could not definitively attribute plaintiff's condition to her accident, stating that arthritis was most likely the cause. Thus, plaintiff's injury did not meet the required threshold for recovery under MCL 500.3135(1), and plaintiff is not entitled to relief.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Michael J. Talbot

/s/ Kurtis T. Wilder