

STATE OF MICHIGAN
COURT OF APPEALS

JOAN HOOKS-POLK,

Plaintiff-Appellant,

v

JAMES ANTHONY BLAIR and KUDAR
SASTRY MURALI,

Defendants-Appellees.

UNPUBLISHED

June 15, 2004

No. 245562

Wayne Circuit Court

LC No. 01-112729-NI

Before: Markey, P.J., and Wilder and Meter, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition in this automobile negligence action. We remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action seeking damages for injuries sustained in an automobile accident. Defendants moved for judgment on the ground that plaintiff's injuries did not meet the serious impairment threshold. The trial court ruled that whatever plaintiff's injuries, they did not affect her general ability to lead a normal life and granted the motion. We review the trial court's ruling on a motion for summary disposition de novo on appeal. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

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).

We conclude that this case is governed by the case of *May v Sommerfield*, 239 Mich App 197; 607 NW2d 422 (1999). We remand for the reasons stated in that case:

Here, while the trial court entered judgment in favor of defendants as a matter of law under MCR 2.116(C)(10), it failed to make the factual findings to support its judgment as required by MCL 500.3135(2)(a) We cannot decide the merits of plaintiff’s appeal absent these required findings. Accordingly, we remand for further proceedings. We instruct the trial court on remand to make findings concerning whether a factual dispute exists with respect to whether plaintiff suffered a “serious impairment of body function,” considering “the nature and extent” of plaintiff’s injuries consistent with MCL 500.3135(2)(a)(i) or (ii) In determining the “nature” of plaintiff’s injuries, the trial court should make appropriate findings concerning whether there is a factual dispute with respect to whether plaintiff has an “objectively manifested” impairment and, if so, whether “an important body function” is impaired. In determining the “extent” of plaintiff’s injuries, the trial court should make appropriate findings concerning whether there is a factual dispute with respect to whether the impairment affects plaintiff’s “general ability to lead [her] . . . normal life.” [*May, supra*, 202-203.]¹

Remanded for further proceedings consistent with this opinion. The trial court shall file its findings with this Court within sixty days from the date of this opinion. We retain jurisdiction.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter

¹ See also *Kern v Blethen-Coluni*, 240 Mich App 333, 346; 612 NW2d 838 (2000) (Meter, J., concurring in part and dissenting in part).