STATE OF MICHIGAN

COURT OF APPEALS

PAMELA L. WILLIAMS,

Plaintiff-Appellant,

v

MICHAEL A. WHITFIELD,

Defendant-Appellee.

UNPUBLISHED
November 17, 2005

No. 254906
Wayne Circuit Court
LC No. 03-315615-NI

Before: Murphy, P.J., and Sawyer and Meter, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a passenger on defendant's motorcycle, was injured after defendant collided with another vehicle. At issue is whether plaintiff must meet the no-fault "serious impairment" threshold to recover noneconomic damages from defendant. The trial court ruled that she did and that, because plaintiff's injuries did not meet that threshold, defendant was entitled to summary disposition.

We review de novo a trial court's ruling with respect to a motion for summary disposition. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). Statutory interpretation is a question of law that is also reviewed de novo. *Roberts v Mecosta Co General Hosp*, 466 Mich 57, 62; 642 NW2d 663 (2002).

The rules of statutory construction require the courts to give effect to the Legislature's intent. *Institute in Basic Life Principles, Inc v Watersmeet Twp (After Remand)*, 217 Mich App 7, 12; 551 NW2d 199 (1996). We should first look to the specific statutory language to determine the intent of the Legislature, which is presumed to intend the meaning that the statute plainly expresses. *Id.* If the language is clear and unambiguous, the plain meaning of the statute reflects the legislative intent, and judicial construction is not permitted. *Tryc v Michigan Veterans' Facility*, 451 Mich 129, 135; 545 NW2d 642 (1996). If the statute defines a given term, that definition is controlling. *Id.* at 136.

"[T]ort liability arising from the ownership, maintenance, or use . . . of a motor vehicle with respect to which the security required by section 3101 was in effect is abolished except"

with regard to damages for noneconomic loss for personal injury as provided by § 3135(1) and with regard to other circumstances not relevant here. See MCL 500.3135(3)(b). Section 3135(1) provides, in part, that a "person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1).

Section 3101 requires the owner or registrant "of a motor vehicle required to be registered" to "maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance." MCL 500.3101(1). As used in Chapter 31, of which §§ 3101 and 3135 are a part, a "motor vehicle" is defined to include "a vehicle, including a trailer, operated or designated for operation upon a public highway by power other than muscular power which has more than 2 wheels. Motor vehicle does not include a motorcycle or moped . . . ." MCL 500.3101(2)(e). Thus, a motorcycle owner is not required to maintain the insurance otherwise required under § 3101(1). See *Piersante v American Fidelity Ins Co*, 88 Mich App 607, 609-610; 278 NW2d 691 (1979).

Here, plaintiff seeks recovery in tort from the driver of a motorcycle. Because § 3135(3) only abolishes tort liability arising from the use of a motor vehicle for which insurance is required, and because a motorcycle is not a "motor vehicle" and is not required to be insured under § 3101, tort liability arising from the use of a motorcycle is not abolished. One exception to the general abolition of tort liability under § 3135(3) is the situation in which the plaintiff suffered a threshold injury. However, because tort liability arising from the use of a motorcycle is not abolished, any exception to the abolition of tort liability arising from the use of motor vehicles is irrelevant here. Viewed another way, the limitation on tort liability for threshold injuries under § 3135(1) applies only to losses caused by a person's "ownership, maintenance, or use of a motor vehicle." A motorcycle is not a "motor vehicle" as that term is used in § 3135(1), and, therefore, losses caused by a person's ownership, maintenance or use of a motorcycle are not subject to the limitations of § 3135.

We acknowledge that in *Braden v Spencer*, 100 Mich App 523, 529; 299 NW2d 65 (1980), this Court concluded that "[i]n drafting the no-fault act, we do not believe the Legislature intended that motorcyclists be excluded from § 3135." However, the *Braden* Court did not consider § 3135(1) in the context of *liability sought to be imposed against a motorcycle driver*. While the plaintiff in *Braden* was a motorcyclist, he sought recovery in tort from the driver of a "motor vehicle." *Braden*, *supra* at 525. Because the plaintiff sought to impose tort liability against the driver of a "motor vehicle" who was required to maintain insurance under § 3101, and because none of the exceptions to the abolition of tort liability under § 3135(3) applied, the defendant driver was not liable in tort. See *Braden, supra* at 529. In this case, by contrast, plaintiff seeks recovery in tort from the driver of a vehicle other than a "motor vehicle." Accordingly, the limitations of § 3135 are inapplicable, and the trial court erred in granting summary disposition to defendant.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ William B. Murphy
/s/ David H. Sawyer
/s/ Patrick M. Meter