STATE OF MICHIGAN

COURT OF APPEALS

RROK GURAJ,

Plaintiff-Appellee,

v

CONNECTICUT INDEMNITY INSURANCE COMPANY,

Defendant/Third-Party Plaintiff-Appellee,

and

LEGION INSURANCE COMPANY,

Third-Party Defendant,

and

AUTO CLUB INSURANCE ASSOCIATION,

Third-Party Defendant-Appellant.

UNPUBLISHED
February 23, 2006

No. 257509
Macomb Circuit Court
LC No. 2001-002871-NF

Before: Murray, P.J., and Cavanagh and Saad, JJ.

PER CURIAM.

Defendant Auto Club Insurance Association (ACIA) appeals the trial court's order that denied its motion for summary disposition and its subsequent order that awarded plaintiff $122,991.44 in personal injury protection (PIP) no-fault benefits, including stipulated medical expenses, replacement services, and lost wages. We reverse.

I. Facts and Procedural History

On September 29, 2000, plaintiff was injured in a motor vehicle accident in Indiana while he was hauling coiled steel for Northern Steel Transport Company. Though plaintiff was a Michigan resident, had a Michigan driver's license, and was driving a semi-truck that was purchased in Michigan, he registered the semi-truck in Oklahoma. Connecticut Indemnity Insurance Company insured the truck under a policy that provided for non-trucking liability and

Michigan no-fault coverage, but excluded coverage if the vehicle was "under motor carrier direction, control or dispatch, or used to carry property in any business." Plaintiff does not dispute that he was operating the truck under dispatch at the time of the accident. The trailer that plaintiff was carrying at the time of the accident was insured by Legion Insurance Company (Legion) under a policy that included a certification of Michigan no-fault coverage pursuant to MCL 500.3163. In addition to the semi-truck, plaintiff owned two personal vehicles, both of which were insured by ACIA under Michigan no-fault policies.

On July 3, 2001, plaintiff filed this action against Connecticut to recover first-party PIP benefits under Michigan's no-fault act, MCL 500.3100 *et seq*. because he maintained that Connecticut was the insurer of the vehicle involved in the accident. Connecticut responded on August 20, 2001, by filing a third-party complaint that named ACIA and Legion as third-party defendants. Connecticut asserted that coverage was excluded under its policy because the accident occurred while plaintiff was hauling cargo under dispatch by Northern Steel, and that either Legion, as the insurer of the trailer owned by Northern Steel, or ACIA, as the insurer of plaintiff's personal vehicles, were the responsible parties.

The parties filed motions for summary disposition and the trial court granted Connecticut's and Legion's motions and dismissed them from the case. In its motion, ACIA argued that plaintiff was not entitled to PIP benefits because his semi-truck was required to be registered in Michigan and the coverage required by MCL 500.3101 was not in effect at the time of the accident. The trial court did not decide whether plaintiff had the required insurance coverage in effect on his semi-truck at the time of the accident, but it found that ACIA, as the insurer of plaintiff's personal vehicles, was first in priority to pay no-fault benefits and, accordingly, the trial court denied ACIA's motion. Because Connecticut was dismissed, plaintiff filed an amended complaint naming ACIA as a party defendant on December 3, 2002. The trial court later rejected ACIA's argument that the one-year-back provision of MCL 500.3145(1) barred recovery for any losses that occurred more than one year before December 3, 2002, and instead found that plaintiff's action against ACIA related back to July 3, 2001, the date that plaintiff filed his original complaint against Connecticut.

II. Analysis

This Court reviews the trial court's grant or denial of a summary disposition motion de novo. *Spiek v Dep't of Transportation,* 456 Mich 331, 337; 572 NW2d 201 (1998). Statutory interpretation is a question of law which this Court also reviews de novo on appeal. *People v Stone Transport, Inc*, 241 Mich App 49, 50; 613 NW2d 737 (2000).

ACIA argues that plaintiff was required to register his semi-truck in Michigan and, therefore, he is not entitled to recover PIP benefits unless the security required by MCL 500.3101 was in effect at the time of the accident. MCL 500.3113 provides, in pertinent part:

> A person is not entitled to be paid personal protection insurance benefits for accidental bodily injury if at the time of the accident any of the following circumstances existed:
>
> * * *

> (b) The person was the owner or registrant of a motor vehicle or motorcycle involved in the accident with respect to which the security required by section 3101 or 3103[1] was not in effect.

MCL 500.3101 provides that "[t]he owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance."

Plaintiff does not dispute that he was the owner of the semi-truck involved in the accident, but he suggests that Michigan registration was not specifically required for his semi-truck and notes that an owner is allowed to incorporate in other states. Plaintiff does not assert that he is incorporated, however, or that the highway reciprocity act, MCL 3.161 *et seq.*, is applicable here.

MCL 257.216 provides, with certain exceptions not applicable here, that "every motor vehicle . . . when driven or moved upon a highway, is subject to the registration and certificate of title provisions of this act." The question of registration is important because this Court has held that "only those vehicles required to be registered in this state are subject to the requirements of the no-fault act." *Covington v Interstate Sys*, 88 Mich App 492, 494; 277 NW2d 4 (1979). In *Wilson v League Gen Ins Co*, 195 Mich App 705, 708-710; 491 NW2d 642 (1992), this Court implicitly concluded that Michigan residents are required to register their vehicles in the state.

Plaintiff asserts that the Michigan registration requirement does not apply to him because he did not operate the semi-truck in Michigan and, under MCL 500.3102, he was not required to register the semi-truck unless it was "operated in this state for an aggregate of more than 30 days in any calendar year." However, the 30-day rule in MCL 500.3102 applies only to nonresident owners of vehicles. *Wilson*, *supra* at 709-710. Here, it is undisputed that plaintiff is a Michigan resident. We conclude that because plaintiff is a Michigan resident, he "cannot then be a nonresident for purposes of MCL 500.3102." *Id.* Because plaintiff is a Michigan resident and owned the semi-truck, the semi-truck is "a motor vehicle required to be registered in [Michigan]." MCL 500.3101; *Wilson*, *supra* at 709. Accordingly, under MCL 500.3113(b), plaintiff is not entitled to recover PIP benefits unless the security required by § 3101 was in effect at the time of the accident.

The evidence submitted below failed to demonstrate that the semi-truck had the required security at the time of the accident. When the trial court ruled otherwise, it relied on *Smith v Continental Western Ins Co*, 169 F Supp 2d 687 (ED Mich, 2001), to suggest that Michigan's no-fault act has the "broader purpose" of providing benefits whenever an insured is involved in a motor vehicle accident, whether or not a registered vehicle is involved. In *Smith*, however, the federal district court's conclusion that the plaintiff's personal insurance carrier was first in priority to pay PIP benefits was premised in large part on the fact that the plaintiff there was not a Michigan resident and, therefore, under MCL 500.3101(1), he was not subject to Michigan's no-fault requirements. Here, plaintiff is a Michigan resident and the nonresident analysis in

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[1] MCL 500.3103 applies to motorcycles and is not at issue here.

Smith is not applicable. Plaintiff asserts that it is sufficient that he paid for coverage by Connecticut, even if that coverage was excluded at the time of the accident, but he provides no authority to support his claim that paying for non-trucking coverage is enough to make the coverage "in effect" at the time of a trucking accident. In any event, we conclude that where coverage is excluded, it is "not in effect" for purposes of MCL 500.3113(b).

Legion's out-of-state policy did not provide coverage for plaintiff's semi-truck, nor did it specifically provide for no-fault coverage. Though Legion's policy did include the certification prescribed by MCL 500.3163, such certification only encompasses "accidental bodily injury or property damages, occurring in this state arising from the ownership, operation, and maintenance, or use of a motor vehicle as a motor vehicle by an out-of-state resident who is insured under its automobile liability insurance policies." Neither condition is applicable here because plaintiff is a Michigan resident and the accident occurred out of state.

Because the evidence demonstrated that plaintiff's semi-truck was a vehicle required to be registered in Michigan, and that the security required by § 3131 was not in effect at the time of the accident, pursuant to MCL 5113(b), plaintiff is not entitled to be paid PIP benefits. Therefore, the trial court erred in denying ACIA's motion for summary disposition.

Reversed.

/s/ Christopher M. Murray
/s/ Mark J. Cavanagh
/s/ Henry William Saad