

STATE OF MICHIGAN  
COURT OF APPEALS

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ALEXANDER YOVAN,

Plaintiff,

and

MARY YOVAN,

Plaintiff-Appellant,

v

IVETA BACAROVA and JAROSLAV  
JEDINAK,

Defendants-Appellees.

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UNPUBLISHED

May 4, 2006

No. 258976

Oakland Circuit Court

LC No. 03-054990-NI

Before: Neff, P.J., and Saad and Bandstra, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court order granting summary disposition in favor of defendants. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review de novo the trial court's ruling on a motion for summary disposition. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. *Id.* In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions, and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. *Id.* Summary disposition is appropriate when the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co*, 460 Mich 446, 455; 597 NW2d 28 (1999).

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).

In *Kreiner v Fischer*, 471 Mich 109, 131; 683 NW2d 611 (2004), our Supreme Court established a four-step process "to provide the lower courts with a basic framework for separating out those plaintiffs who meet the statutory threshold from those who do not." The first three steps are not at issue here. Plaintiff admits that there is not a factual dispute as to the nature and extent of her injuries. Plaintiff had objectively manifested injuries; her broken ribs and pleural effusion were confirmed by x-rays. The broken ribs impaired her ability to move around, at least initially, and moving is an important body function.

If an important body function has been impaired and the impairment is objectively manifested, the issue is whether the impairment affected the plaintiff's general ability to lead her normal life. *Id.* at 132. In answering this question, the court is to compare the plaintiff's life before and after the accident and consider "the significance of any affected aspects on the course of the plaintiff's overall life." *Id.* at 132-133. Factors to consider include "(a) the nature and extent of the impairment, (b) the type and length of treatment required, (c) the duration of the impairment, (d) the extent of any residual impairment, and (e) the prognosis for eventual recovery." *Id.* at 133. "Merely 'any effect' on the plaintiff's life is insufficient because a de minimus effect would not, as objectively viewed, affect the plaintiff's 'general ability' to lead his normal life." *Id.* In other words, "[a] negative effect on a particular aspect of an injured person's life is not sufficient in itself to meet the tort threshold, as long as the injured person is still generally able to lead his normal life." *Id.* at 137. An injury need not be permanent in order to be serious, *Kern v Blethen-Coluni*, 240 Mich App 333, 341; 612 NW2d 838 (2000), but it must be of sufficient duration to affect the course of a plaintiff's life. *Kreiner, supra* at 135. An impairment of short duration may constitute a serious impairment of body function if its effect on the plaintiff's life is extensive. *Id.* at 134.

Plaintiff suffered several fractured ribs and pleural effusion. The effusion was drained with a chest tube during her five-day hospital stay, and has resolved as far as is known. Plaintiff received no treatment apart from bed rest and pain management for her broken ribs. She was confined to bed for ten days following her discharge from the hospital. Thereafter, she returned home. She could still cook, go grocery shopping, go to church, travel, visit with her grandchildren, knit and crochet, do laundry, and attend to her daily needs. She limited some of these activities and gave up other activities because of residual pain. There is no evidence that these restrictions were imposed by a doctor, and "[s]elf-imposed restrictions, as opposed to physician-imposed restrictions, based on real or perceived pain do not establish" residual impairment. *Id.* at 133 n 17. In light of such evidence, the trial court did not err in concluding that plaintiff's injuries did not affect her general ability to lead her normal life.

We affirm.

/s/ Henry William Saad

/s/ Richard A. Bandstra