

STATE OF MICHIGAN  
COURT OF APPEALS

---

HAWKEYE SECURITY INSURANCE  
COMPANY,

Plaintiff-Appellee,

v

No. 101310

WILLIE EUGENE COX, III,

Defendant-Appellant.

---

BEFORE: R.M. Maher, P.J., and J.H. Shepherd and K. Tertzag\*, JJ.

PER CURIAM

Plaintiff Hawkeye Security Insurance Company filed this action for declaratory judgment in the Saginaw Circuit Court, seeking a declaration that an accident suffered by defendant Willie Eugene Cox, III, was not covered by a policy of motor vehicle insurance issued to a relative of defendant, Mary Louise Cox. The trial court found that defendant's accident was not covered under the policy and, therefore, granted plaintiff's motion for summary disposition. MCR 2.116(C)(10). Defendant appeals that decision as of right. We affirm.

On August 15, 1984, defendant was involved in a motor vehicle accident with an uninsured motorist while driving a motorcycle which he owned. He too did not have insurance coverage. However, because he was residing in Mary Cox's household at the time, he could qualify for coverage under her no-fault insurance policy in certain limited circumstances. That policy, which was issued by plaintiff, provided:

"A. We do not provide Uninsured Motorists Coverage for bodily injury sustained by any person:

"1. While occupying, or when struck by, any motor vehicle owned by you or any family member which is not insured for this coverage under this policy. This includes a trailer of any type used with that vehicle."

---

\*Circuit Judge, sitting on the Court of Appeals by assignment.

It is undisputed that defendant had not obtained uninsured motorist coverage under the policy for his motorcycle. However, he insists that this was unnecessary since the policy language excludes only uninsured "motor vehicles" and that term, as defined in other provisions, does not encompass motorcycles.

In rejecting that argument and in granting plaintiff's motion for summary disposition, the trial court relied upon the holding in Auto-Owners Ins Co v Ellegood, 149 Mich App 673; 386 NW2d 640 (1986). That case held that, despite the no-fault act's exclusion of motorcycles as motor vehicles, for purposes of insurance policies, the definition of motor vehicle in its plain and ordinary sense does encompass motorcycles. Id., p 677. On appeal, defendant challenges the trial court's ruling.

Exclusionary clauses in insurance policies are valid so long as they are clear, unambiguous, and do not contravene public policy. Raska v Farm Bureau Mutual Ins Co of MI, 412 Mich 355, 361-362; 314 NW2d 440 (1982), reh den 412 Mich 1119 (1982); Jones v Philip Atkins Construction Co, 143 Mich App 150, 157; 371 NW2d 508 (1985), lv den 424 Mich 851 (1985). An insurance company may limit the risks it is willing to assume and adjust its premiums accordingly. Illinois Employers Ins of Wausau v Dragovich, 139 Mich App 502, 507; 362 NW2d 767 (1984). Clear and unambiguous exclusionary clauses must be given effect. An insurer cannot be held liable for a risk it did not assume. Id., pp 507-508.

Insurance policies must be construed according to the ordinary and popular sense of the language used therein. State Farm Mutual Automobile Ins Co v Ruuska, 90 Mich App 767, 777; 282 NW2d 472 (1979), aff'd 412 Mich 321; 314 NW2d 184 (1982). Clear and unambiguous policy language will be enforced as written; courts will not interpret or rewrite the parties' contract. Dragovich, supra, p 506. Nor will policy language be given a strained interpretation. Weaver v MI Mutual Liability Co, 32

Mich App 605, 607; 189 NW2d 116 (1971). However, the insurer has the duty to clearly express the limitations on, and exclusions from, coverage in the policy. Francis v Scheper, 326 Mich 441, 447-448; 40 NW2d 214 (1949); Dragovich, supra, p 506. Any ambiguity in the language will be construed in favor of the insured so as to allow for coverage. Dragovich, supra.

Defendant argues that, in several provisions of the insurance policy, the term "motor vehicle" is expressly defined as not encompassing motorcycles. Therefore, he claims that term, although not defined in the instant exclusionary clause, should be given a consistent definition throughout the policy. He also argues that Ellegood is distinguishable because, in that case unlike here, the term "motor vehicle" was not defined within the policy. We agree that Ellegood is distinguishable for that reason, but nevertheless hold that the trial court properly granted summary disposition to plaintiff.

For the most part, defendant's argument regarding the definitions of "motor vehicle" provided elsewhere in the policy is misleading and inaccurate. Many of the provisions cited by defendant define the term "automobile," not "motor vehicle." While the plain and common sense meaning of "automobile" does not include motorcycles, Weaver, supra, the plain and common sense meaning of "motor vehicle" does, Ellegood, supra. Moreover, the fact that the policy explicitly excepts motorcycles from the definition of "motor vehicle" in certain provisions is stronger reason for finding that the term is meant to include motorcycles where not expressly excepted.

Defendant's argument also defies practical sense. The exclusionary provision in question basically provides that the insurer is not liable for bodily injuries to any person occasioned by a motor vehicle owned by the insured or a family member unless the vehicle is covered under the terms of the policy. To be covered, the insured must pay a premium to the

insurer. If the insured has not purchased a policy on that vehicle, bodily injuries occasioned by it are not eligible for uninsured motorist benefits.

According to defendant's interpretation of the exclusionary clause, for an automobile to be covered the insured must purchase a policy; but, for a motorcycle to be covered the insured need not purchase a policy. In effect, defendant is arguing that plaintiff intended to provide free coverage to motorcycles. We cannot assign such a charitable intention to plaintiff. To adopt the position urged by defendant would result in a strained interpretation of the insurance policy.

Affirmed.

/s/ Richard M. Maher  
/s/ John H. Shepherd  
/s/ Kaye Tertzag