

~~STATE OF MICHIGAN~~  
COURT OF APPEALS

---

STANFORD GITTLEMAN and ILENE GITTLEMAN,

Plaintiffs-Appellants,

v

No. 89574

LAPEER FARMS, INC., a Michigan corporation,  
GREAT LAKES HAULING, a/k/a LAPEER FARMS, INC.,  
and LARRY PETER CAMPBELL, Jointly and  
Severally,

Defendants-Appellees.

---

BEFORE: Hood, P.J., T.M. Burns and J.X. Theiler,\* JJ.

PER CURIAM

Plaintiffs appeal as of right from an order granting summary disposition in favor of defendants under MCR 2.116(C)(10), on the basis that plaintiff Ilene Gittleman did not suffer a "serious impairment of body function" under the No-Fault Act. See MCL 500.3135; MSA 24.13135. We affirm.

Plaintiff Ilene Gittleman was injured in an automobile accident on November 23, 1981. She was 53 years old at the time and was employed as a sales clerk at a clothing store. Following the accident, plaintiff complained of pain in her neck, left shoulder, and left lower back. Plaintiff later complained of pain and numbness in her left arm and hand. Plaintiff's lower back pain decreased significantly after a bone tumor, unrelated to the accident, was removed.

Plaintiff was allowed to return to work in July of 1982. Based on complaints of pain, her hours were medically restricted. There was medical testimony indicating that plaintiff would not work at those types of activities which required repetitive heavy lifting, or working with her arms or elbows above shoulder level. There was little testimony concerning any other effects which plaintiff's injury had on her life. Plaintiff stated that she could not cook or clean and stand on her feet for long periods of time. She also stated she could not sit for long periods of time.

---

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

The issue for consideration is whether the trial court erred in ruling as a matter of law that plaintiff's injuries did not constitute a serious impairment of body function within the meaning of MCL 500.3135(1); MSA 24.13135(1). In reviewing the facts of the case, the benefit of any reasonable doubt must be given to the party opposing the motion for summary disposition. Garris v Vanderlaan, 146 Mich App 619; 381 NW2d 412 (1985).

The seminal case on issues concerning serious impairment of body function is Cassidy v McGovern, 415 Mich 483; 330 NW2d 22 (1982). There, our Supreme Court held that the question of whether a plaintiff's injuries constitute a serious impairment of body function is a matter of law to be decided by the trial court under certain circumstances. When there is no factual dispute regarding the nature and extent of a plaintiff's injuries, or when there is a factual dispute that is not material to the determination of whether plaintiff has suffered serious impairment, the trial court is to rule as a matter of law whether the threshold requirement has been met. 415 Mich 502. See also Williams v McGowan, 135 Mich App 457; 384 NW2d 382 (1984).

The Cassidy Court stated three standards to apply in determining whether the serious impairment threshold has been satisfied. First, there must be an impairment of an important body function. Second, there must be an objectively-manifested injury which affects the functioning of the body. Third, the injuries must be serious. 415 Mich 504-505; Williams v Payne, 131 Mich App 403, 409; 346 NW2d 564 (1984).

Summary disposition was properly granted in the instant case. While plaintiff may have suffered an impairment of an important body function, see Burk v Warren (After Remand) 137 Mich App 715, 725; 359 NW2d 541 (1984), her injury is not sufficiently serious to merit a denial of defendant's motion.

The seriousness of an injury should be considered in conjunction with the other threshold requirements found in the No-Fault Act, namely death and permanent serious disfigurement. Cassidy, supra, 503; Mills v Jolliff, 147 Mich App 746, 750; 383

NW2d 134 (1985). To constitute a serious impairment of body function, an injury must significantly affect the plaintiff's ability to lead a normal life. Kosack v Moore 144 Mich App 485, 489; 375 NW2d 742 (1985); Walker v Caldwell, 148 Mich App 827, 832; 385 NW2d 703 (1986). Simple difficulty or inconvenience in daily life does not meet the threshold. Morris v Levine, 146 Mich App 150; 379 NW2d 402 (1985). Plaintiff Ilene Gittleman's impairment does not rise to the level of that required under the No-Fault Act so as to compare with death or permanent disfigurement. The evidence submitted indicates that plaintiff's injury has not prevented her from living what can be objectively termed a normal lifestyle.

Plaintiffs claim that summary disposition was inappropriate because there was a disagreement between two doctors as to the nature and extent of Ilene's injuries. Although there was a factual dispute, summary disposition was correctly granted because even considering the disputed injuries in a light most favorable to plaintiffs, Ilene's injuries did not meet the serious impairment threshold. McGowan, supra.

Finally, plaintiffs claim that summary disposition was inappropriate because a factual dispute existed concerning whether plaintiff's work loss exceeded the three-year limitations of the No-Fault Act. Plaintiffs have failed to preserve this issue for appeal by failing to present the issue to the trial court. Town & Country Dodge, Inc. v Michigan Dep't of Treasury, 118 Mich App 778, 779-790; 325 NW2d 577 (1982), aff'd 420 Mich 226; 362 NW2d 618 (1985).

Affirmed.

/s/ Harold Hood  
/s/ Thomas M. Burns  
/s/ John X. Theiler