

STATE OF MICHIGAN
COURT OF APPEALS

RONALD J. ZEUGNER,

June 7, 1991

Plaintiff-Appellant,

v

No. 128097

MUTUAL SERVICE CASUALTY INSURANCE COMPANY,

Defendant-Appellee.

Before: Griffin, P.J., and Sawyer and Weaver, JJ.

PER CURIAM.

In this no-fault insurance dispute, plaintiff appeals as of right from a circuit court order denying his motion for summary disposition and entering summary disposition in favor of defendant pursuant to MCR 2.116(C)(10). We affirm.

Plaintiff was injured when he was struck in the left leg by a golf cart being driven by his neighbor, William Schmitt. It is undisputed that the accident occurred on a gravel driveway located on private property. Following the accident, plaintiff sought no-fault insurance benefits from defendant, Mutual Service Casualty Insurance Company, plaintiff's automobile insurer. Plaintiff's claim for benefits was denied, and he filed the instant lawsuit. Following a hearing, the trial court entered summary disposition in favor of defendant. The trial court ruled as a matter of law that the golf cart was not a motor vehicle as defined by the no-fault act.

The statute at issue is MCL 500.3101(2)(e); MSA 24.13101(2)(e) which provides, in pertinent part:

(2) As used in this chapter:

* * *

(e) "Motor vehicle" means a vehicle, including a trailer, operated or designed for operation upon a public highway by power other than muscular power which has more than 2 wheels. . . .

In his first argument on appeal, plaintiff invites us to extend the meaning of public highway to encompass private driveways. Plaintiff urges us to do so as a matter of public policy, citing the remedial nature of the no-fault act. We decline plaintiff's invitation and refuse to do violence to the statute. Plaintiff's policy argument is appropriately addressed to the Legislature.

Because there is no dispute that the golf cart was not being operated on a public highway, plaintiff can only succeed if the golf cart was designed for such use. Jones v Employers Ins of Wausau, 157 Mich App 345, 347-348; 403 NW2d 130, lv den 428 Mich 899 (1987); Ebernickel v State Farm Mutual Automobile Ins Co, 141 Mich App 729, 731; 367 NW2d 444, lv den 422 Mich 969 (1985). Plaintiff stipulated below that the golf cart was not so designed, and we agree. Furthermore, the fact that Schmitt often used the golf cart on public roads as a "substitute vehicle" does not alter this result. Id. Summary disposition in favor of defendant was proper.

Affirmed.

/s/ Richard Allen Griffin
/s/ David H. Sawyer
/s/ Elizabeth A. Weaver