

STATE OF MICHIGAN
COURT OF APPEALS

BARBARA ANN AKERS,

Plaintiff-Appellant,

v

BRUCE EDWARD DENNIS III and
WOLVERINE TRUCK SALES, INC,

Defendants-Appellees.

January 14, 1992

No. 134656

Before: Weaver, P.J., and MacKenzie and Fitzgerald, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition in favor of defendants. The court found as a matter of law that plaintiff's injuries did not amount to a serious impairment of body function, the threshold necessary for recovery of noneconomic damages under the Michigan no-fault insurance act, MCL 500.3135(1); MSA 24.13135(1). We affirm.

This case arises out of an accident which occurred on February 10, 1987 when plaintiff attempted to pass a truck on I-94. Plaintiff refused medical treatment at the time of the accident. Two days later, however, she sought emergency room medical attention for neck, chest, and left arm pain. Plaintiff was diagnosed as having muscle spasms and "some reversal of the usual cervical curve in the lower cervical region, probably due to muscle spasm". She was told to take Tylenol.

Plaintiff did not seek further medical attention until almost a year later, on January 21, 1988. She was prescribed Motrin during that visit. Plaintiff began treating with a chiropractor the following summer. In August 1988, she returned to the emergency room after chiropractic treatment. The emergency room physician noted "no definite abnormality" on review of x-rays. Neurological tests were considered normal, and there was no objective evidence of neurological impairment in the neck region. Eventually, plaintiff consulted Dr. John Beuker. He gave plaintiff an injection of cortisone, which resolved her neck pain. Plaintiff's pain subsequently moved to her thoracic spine and then her lumbar spine. Dr. Beuker indicated that "examination of [plaintiff's] neck revealed that she had full range of motion in her cervical spine." Further, neurological tests were normal, and examination of plaintiff's lumbar spine revealed that she had an excellent range of motion.

In DiFranco v Pickard, 427 Mich 32, 38; 398 NW2d 896 (1986), our Supreme Court held that "[t]he question whether the plaintiff suffered a serious impairment of body function must be submitted to the trier of fact whenever the evidence would cause reasonable minds to differ as to the answer." The meaning of serious impairment must be viewed in light of the effect of the injury on the plaintiff's body functions, rather than the effect of the injury on plaintiff's life or lifestyle. DiFranco, *supra*, pp 68-69; Owens v Detroit, 163 Mich App 134, 138; ___ NW2d ___ (1987). At least three factors should be considered when evaluating the seriousness of the impairment of body function: (1) the extent of the impairment in quantitative, medical terms; (2) the duration of the impairment; and (3) the type of treatment required to rectify the impairment. DiFranco, *supra*, pp 67-68; Owens, *supra*, p 138.

Applying the DiFranco standard to plaintiff's injury in this case, we agree with the trial court that reasonable minds could not differ in concluding that plaintiff's injuries did not constitute serious impairment of body function. Although there was evidence that plaintiff has experienced neck or back pain since the

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accident, there was no evidence as to the extent of her impairment in quantitative medical terms. Neurological tests and range of motion were normal. As for the type of treatment plaintiff has received, her course of treatment has been unremarkable. Treatment was essentially delayed until 1-1/2 years after the accident. Past treatment has involved taking painkillers, anti-inflammatory medicines, and muscle relaxants. Her neck pain was apparently resolved with a cortisone injection. Future treatment for her back pain may involve psychological counseling to teach plaintiff relaxation and pain management techniques.

Based on the record before us, we are satisfied that reasonable minds could not differ in concluding that plaintiff's injuries do not amount to a serious impairment of body function. Accordingly, we affirm the decision of the trial court.

Affirmed.

/s/ Elizabeth A. Weaver
/s/ Barbara B. MacKenzie
/s/ E. Thomas Fitzgerald