STATE OF MICHIGAN

COURT OF APPEALS

DANNY NEWTON,

Plaintiff-Appellant,

v

AUTO CLUB INSURANCE ASSOCIATION,
a Michigan corporation,

Defendant-Appellee.

August 11, 1992

No. 131643

UNPUBLISHED

Before: Sawyer, P.J., and Murphy and L.P. Borrello,* JJ.

PER CURIAM.

Plaintiff appeals from the order granting defendant summary disposition as to plaintiff's claim under the Michigan no-fault act. We affirm.

This action arose from an accident at the Dearborn Assembly Plant of the Ford Motor Company, where plaintiff was employed as a laborer. Plaintiff's job was to drive cars off the assembly line and to then adjust the headlights with a machine, while another employee aligned the front end of the car.

On January 21, 1988, while plaintiff was attempting to jump start a car that had been driven off the assembly line, another car being driven off the assembly line struck the rear of the car on which plaintiff was working, injuring plaintiff. Plaintiff received worker's compensation for medical expenses and loss of wages.

At the time of the accident, plaintiff had a no-fault insurance policy issued by defendant covering plaintiff's personal vehicles. Plaintiff filed this action against defendant seeking no-fault benefits. The circuit court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(8).

Plaintiff contends that the circuit court erred in granting defendant summary disposition because plaintiff is entitled to no-fault benefits for his injuries. Section 3105(1) of the no-fault act provides as follows:

> Under personal protection insurance an insurer is liable to pay benefits for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle, subject to the provisions of this chapter. [MCL 500.3105(1); MSA 24.13105(1).]

"Motor vehicle" is defined by MCL 500.3101(2)(e); MSA 24.13101(2)(e), in pertinent part, as a vehicle operated or designed for operation upon a public highway by power other than muscular power which has more than two wheels. While it is undisputed that the car, when finished, would have been designed for operation upon a public highway, defendant argues that, at the time of the accident, the car did not meet this definition.

In Truby v Farm Bureau General Ins of Michigan, 175 Mich App 569, 574; 438 NW2d 249 (1988), this Court concluded that a pickup truck that was completely assembled except for the truck bed was "designed for operation on a highway" and was therefore a motor vehicle as defined by what is now MCL 500.3101(2)(e); MSA 24.13101(2)(e). As in Truby, we conclude that the car in this case, complete except for the adjustment of the headlights, is a motor vehicle.

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MCL 500.3106(2)(a); MSA 24.13106(2)(a) specifically restricts recovery, however, for accidental bodily injury involving a parked car where worker's compensation benefits are payable, but with certain exceptions:

> (2) Accidental bodily injury does not arise out of the ownership, operation, maintenance, or use of a parked vehicle as a motor vehicle if benefits under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, or under similar law of another state or under a similar federal law, are available to an employee who sustains the injury in the course of his or her employment while doing either of the following:
>
> (a) Loading, unloading, or doing mechanical work on a vehicle unless the injury arose from the use or operation of another vehicle. As used in this subdivision, "another vehicle" does not include a motor vehicle being loaded on, unloaded from, or secured to, as cargo or freight, a motor vehicle.

This Court has previously discussed the legislative intent behind MCL 500.3106(2); MSA 24.13106(2) and has determined that the Legislature intended to eliminate no-fault benefits where the recovery would be duplicative of worker's compensation benefits where the work-related injuries did not actually relate to the driving or operation of a motor vehicle. Stanley v State Automobile Mutual Ins Co, 160 Mich App 434, 437-439; 408 NW2d 467 (1987); Bell v F J Boutell DriveawBay Co, 141 Mich App 802, 809-810; 369 NW2d 231 (1985). In this case, there is no dispute but that plaintiff was doing mechanical work on a vehicle which was then struck by another car. Although it is questionable whether the Legislature intended to provide no-fault benefits for what is, in this case, essentially an industrial accident, the plain language of MCL 500.3106(2); MSA 24.13106(2) does not exclude coverage.

MCL 500.3105(1); MSA 24.13105(1), however, requires an insurer to pay personal protection insurance benefits only for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle. Truby, supra, 571-572. A causal connection is required between the use of the motor vehicle as a motor vehicle and the injury. The involvement of the car to the injury must be directly related to the car's character as a motor vehicle. Thornton v Allstate Ins Co, 425 Mich 643, 659-660; 391 NW2d 320 (1986); Shellenberger v Ins Co of North America, 182 Mich App 601, 603; 452 NW2d 892 (1990).

In this case, the accident arose from two cars being completed in the assembly line process. The injury is related to the assembly of cars and not the use of the cars as motor vehicles. Plaintiff is therefore not entitled to no-fault benefits as the injuries did not arise from the use of a motor vehicle as a motor vehicle as required by MCL 500.3105(1); MSA 24.13105(1).

Affirmed.

/s/ David H. Sawyer
/s/ William B. Murphy
/s/ Leopold P. Borrello