

STATE OF MICHIGAN
COURT OF APPEALS

DOLORES WEAVER and GERRIL WEAVER,
Individually and as Personal
Representatives of the Estate of
Jeffrey Dean Weaver, Deceased,

Plaintiffs-Appellants,

August 31, 1993

v

No. 152391
LC No. 90002876 CK

ALLSTATE INSURANCE COMPANY,
a foreign corporation,

Defendant-Appellee,

and

ALLSTATE INSURANCE COMPANY,
a foreign corporation,

Third-Party Plaintiff,

v

STATE FARM INSURANCE COMPANY,

Third-Party Defendant.

BEFORE: Shepherd, P.J., and Holbrook, Jr. and MacKenzie, JJ.

PER CURIAM.

Plaintiffs appeal as of right the April 29, 1992 order granting summary disposition to defendant Allstate Insurance Company pursuant to MCL 2.116(C)(8) and (C)(10). We affirm.

On August 11, 1989, plaintiffs' son, Jeffrey Dean Weaver, was killed when he was hit by a vehicle insured by defendant Allstate. After his death, plaintiffs sought survivor's loss benefits as dependents pursuant to MCL 500.3108; MSA 24.13108. At the time of death, Jeffrey Weaver was single, thirty-one years old, and living at home with his parents, but did not contribute financially to the support of the family's home. At the time of their son's death, plaintiff Gerril Weaver was employed full-time by Buchanan Industries and plaintiff Dolores Weaver was working part-time at a local hospital. In addition, neither plaintiff suffers from physical or mental disabilities. After a hearing, the trial court granted defendant summary disposition because plaintiffs' claim that they were dependents under MCL 5090.3110(3); MSA 24.13110(3) was not factually supported by the pleadings.

Under MCL 500.3108; MSA 24.13108, dependents are entitled to survivor's loss benefits. A dependent of a deceased person is defined by MCL 500.3110; MSA 24.13110. Because plaintiffs do not fit within the categories of those conclusively presumed to be dependents, their status as dependents is determined under section (2) as limited by section (3). Vovak v DAIIE, 98 Mich App 81, 84; 296 NW2d 193 (1980). These sections provide:

(2) In all other cases, questions of dependency and the extent of dependency shall be determined in accordance with the facts as they exist at the time of death.