STATE OF MICHIGAN

COURT OF APPEALS

INTEGRAL INSURANCE COMPANY,

Plaintiff-Appellee/
Cross-Appellant,

v

MAERSK CONTAINER SERVICE COMPANY, INC.
d/b/a BRIDGE TERMINAL TRANSPORT,

Defendant-Appellant,
Cross-Appellee,

and

RALPH EDWARD SCOTT,

Defendant.

INTEGRAL INSURANCE COMPANY,

Plaintiff-Appellant/
Cross-Appellant,

v

No. 149038
LC No. 90-11337

MAERSK CONTAINER SERVICE COMPANY, INC.
d/b/a BRIDGE TERMINAL TRANSPORT, and
RALPH EDWARD SCOTT,

Defendants,

and

INSURANCE COMPANY OF NORTH AMERICA,

Defendant-Appellee/
Cross-Appellee.

Before: Hood, P.J., and R.J. Danhof* and Jeanne Stempien**, JJ.

PER CURIAM.

In Docket No. 148914, Maersk Container Service Company d/b/a Bridge Terminal Transport (Maersk) appeals as of right from the circuit court's order granting the motion for summary disposition of plaintiff Integral Insurance Company (Integral) pursuant to MCR 2.116(C)(10). Although it prevailed, Integral cross-appeals as of right from certain conclusions of law reached by the circuit court. In Docket No. 149038, Insurance Company of North America (INA) also appeals as of right from the same order. We affirm.

This case involves a dispute between no-fault insurers regarding the primary liability to Ralph Scott for injuries he sustained on May 4, 1989, when the semitrailer truck he was driving overturned in

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*Former Court of Appeals Judge, sitting on the Court of Appeals pursuant to Administrative Order 1993-6.
**Circuit Judge, sitting on the Court of Appeals by assignment.

Pennsylvania. Although the tractor was owned by Scott and registered in Michigan, Scott leased it to Maersk on April 4, 1989 for ninety days. Under the terms of the lease, Maersk agreed to procure and maintain liability insurance covering bodily injury and property damage for the tractor. Scott agreed to procure "bobtail" insurance and worker's compensation insurance.

INA issued a policy to Maersk covering personal injury protection for automobiles subject to no-fault. Scott's tractor was covered under the policy. Integral issued a "bobtail" policy to Scott which expressly excluded coverage (1) while the tractor was being used to carry property for business and (2) while the tractor was being used for the business of anyone who leased the tractor. Apparently, the lease and insurance arrangement between Scott and Maersk is very common in the trucking industry.

There is no dispute that at the time of the accident, Scott was hauling a trailer attached to the tractor that was loaded with cargo for Maersk. Integral contended that INA's policy covered Scott and was primarily liable because its policy excluded coverage when Scott was hauling cargo for a company to whom the tractor was leased. Integral and INA agreed to each contribute fifty percent of Scott's personal protection insurance benefits during their dispute regarding priority. Integral filed separate lawsuits against Maersk and INA that were later consolidated. Initially, the trial court held that the exclusion clause contained in Integral's policy was contrary to public policy and therefore void. Thus, the issues focused on which policy was primarily responsible for Scott's PIP benefits.

The No-Fault Act provides that owners or registrants of motor vehicles shall maintain security for payment of benefits under personal protection insurance, as well as property and residual liability insurance. MCL 500.3101(1); MSA 24.13101(1). The act also requires insurers to pay PIP benefits to their policyholders for injuries resulting from auto accidents regardless of fault. MCL 500.3105; MSA 24.13105. Because Scott was entitled to PIP benefits under MCL 500.3111; MSA 24.13111, it is necessary to determine which insurance company is liable for those benefits.

In determining their respective priorities, the parties argued at length in the trial court regarding the application of MCL 500.3114; MSA 24.13114, which provides in relevant part:

> (1) Except as provided in subsections (2), (3), and (5), a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident.
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> * * *
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> (3) An employee . . . who suffers accidental bodily injury while an occupant of a motor vehicle owned or registered by the employer, shall receive personal protection insurance benefits to which the employee is entitled from the insurer of the furnished vehicle.

The trial court deferred its decision whether Scott was an employee of Maersk to the hearing referee who was deciding the worker's compensation claim filed against Maersk by Scott. The referee eventually ruled that Scott was an employee of Maersk. Afterward, the trial court entered an order finding that INA was first in priority to pay Scott's PIP benefits under MCL 500.3114(3); MSA 24.13114(3). However, the workers compensation appellate commission subsequently reversed the referee's decision, finding that Scott was not an employee.[1] Thus, the bases for the circuit court's order no longer holds true.

This Court agrees with Maersk and INA that the trial court erred by refusing to determine whether Scott was an employee for purposes of no-fault and deferring its decision to the hearing referee. Although the bureau has exclusive jurisdiction to decide whether injuries suffered by an employee were in the course of employment, the courts have jurisdiction to determine the fundamental issue of whether an employee/employer relationship exist exists. Sewell v Clearing Machine Corp, 419 Mich 56, 62; 347 NW2d 447 (1984); Amerisure Insurance Co v Time Auto Transportation, Inc, 196 Mich App 569, 572; 493 NW2d 482 (1992). The trial court should have decided on its own whether Scott was an employee of Maersk for purposes of applying MCL 500.3114(3); MSA 24.13114(3).

Regardless of the court's error, this Court finds that the court also erred by holding that the bobtail policy was void as contrary to public policy. The scope of coverage regarding an automobile accident is determined by the financial responsibility act, MCL 257.501 et seq; MSA 9.2201 et seq. State Farm Ins v Snappy Car Rental, Inc, 196 Mich App 143, 146; 492 NW2d 500 (1992). Public policy prevents an automobile liability insurance policy from containing exclusions not specifically authorized by the Legislature. However, an exclusionary clause is not per se invalid simply because it is not specifically provided for in the no-fault act. Id., p 147;

Generally, a "bobtail" policy is a policy which insures the tractor and driver of a rig when it is operated without cargo or a trailer. The policy issued by Integral to Scott contained the following exclusion:

> This insurance does not apply to:
>
> 1. A covered auto while used to carry property in any business.
>
> 2. A covered auto while used in the business of anyone to whom the auto is rented.

Integral's policy provided coverage only when Scott was not hauling cargo for a business or when Scott was not hauling cargo for a business to whom the tractor was rented. Admittedly, the policy itself does not provide full coverage. However, the tractor was fully covered under no-fault by the addition of INA's policy which provided coverage when Scott was hauling cargo on behalf of Maersk. This is allowed under MCL 257.520(j); MSA 9.220(j), which provides:

> The requirements for a motor vehicle liability policy may be fulfilled by the policies of 1 or more insurance carriers which policies together meet such requirements.

Taken together, the policy issued by INA and the bobtail policy issued by Integral provided continuous insurance coverage to the tractor as required by the motor vehicle financial responsibility. See also State Farm Mutual Automobile Ins Co v Auto-Owners Ins Co, 173 Mich App 51, 54; 433 NW2d 323 (1988). Accordingly, we hold that the policy issued by Integral is not void, and therefore the trial court's ruling was erroneous.

Thus, the issues related to the trial court's decision that INA was first in priority for paying his PIP benefits under MCL 500.3114(3); MSA 24.13114(3) because Scott was an employee of Maersk is irrelevant because the Integral's exclusion is applicable. We further find that both Scott and Maersk were owners of the tractor under the No-Fault Act as defined under MCL 500.3101(2)(g); MSA 24.13101(2)(g):

> "Owner" means any of the following:
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> (i) A person renting a motor vehicle or having the use thereof, under a lease or otherwise, for a period that is greater than 30 days.
>
> (ii) A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.

Maersk leased the vehicle for 90 days and Scott held legal title to the tractor. Therefore, as owners of a motor vehicle, Scott and Maersk were required to maintain security for payment of benefits under personal protection insurance. MCL 500.3101(1); MSA 24.13101(1). However, as previously stated, INA is responsible for the PIP benefits because Integral's policy did not provide coverage when Scott was hauling cargo on Maersk's behalf.

Therefore, we affirm the summary disposition order despite the erroneous conclusions reached by the court. This Court will not reverse a trial court's decision where it reached the correct result, but for the wrong reason. Bonner v Chicago Title Ins Co, 194 Mich App 462, 472; 487 NW2d 807 (1992). In light of our disposition, we decline to address the remaining issues raised by the parties.

Affirmed.

/s/ Harold Hood
/s/ Robert J. Danhof
/s/ Jeanne Stempien

[1] An application for leave to appeal the WCAC's decision was filed and was denied by this Court.