STATE OF MICHIGAN

COURT OF APPEALS

JUSTINA HARRIS,

Plaintiff-Appellant,

v

GRAND RAPIDS AREA TRANSIT AUTHORITY and JOHN DOE,

Defendants-Appellees.

AUG 5 1986

No. 85250
FOR PUBLICATION

BEFORE: R. B. Burns, P.J., and Maher and F. D. Brouillette*, JJ.

PER CURIAM

Plaintiff appeals from the summary disposition order entered by the Kent County Circuit Court granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(8) and dismissing plaintiff's complaint for failure to state a claim upon which relief could be granted.

Plaintiff sought damages for a personal injury she allegedly sustained as a result of a fall down the steps of a bus owned by defendant Grand Rapids Area Transit Authority (GRATA) and operated by its employee Doe. Specifically, plaintiff contended that, as she was alighting from GRATA Bus No. 67, she slipped on a plastic bag, fell backwards and down the remaining steps. Plaintiff alleged that her injuries were proximately caused by defendants' negligence in failing to remove debris from the bus.

GRATA answered plaintiff's complaint, denying any negligence on its part or on the part of its employee Doe, and further alleged that plaintiff's claim was barred by the applicable provisions of the Michigan no-fault act.

The trial judge issued an opinion from the bench finding that a fall while alighting from a bus is foreseeably identifiable with the normal use of the vehicle as a motor vehicle and, therefore, was within the contemplation of MCL 500.3106; MSA

*Circuit judge, sitting on the Court of Appeals by assignment.

24.13106. The trial court further found that plaintiff's injuries failed to meet the threshold requirements for a serious impairment of body function because they were not objectively manifested. Consequently, the trial judge concluded that plaintiff had failed to state a claim upon which relief could be granted. Accordingly, defendant's motion for summary disposition was granted.

Plaintiff's injuries fall within the no-fault act and, therefore, plaintiff failed to state a claim under the act if the criteria set forth in both MCL 500.3106; MSA 13106 and MCL 500.3105; MSA 24.13105 are met. Section 3106 provides that injuries sustained by a person alighting from a parked vehicle are compensable:

"(1) Accidental bodily injury does not arise out of the ownership, operation, maintenance, or use of a parked vehicle as a motor vehicle unless any of the following occur:

* * *

"(c) Except as provided in subsection (2) for an injury sustained in the course of employment while loading, unloading, or doing mechanical work on a vehicle, the injury was sustained by a person while occupying, entering into, or alighting from the vehicle."

Section 3105 provides that, to be compensable under the no-fault act, accidental bodily injury must arise out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle:

"(1) 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."

Plaintiff's injuries meet the criteria set forth in §§ 3105 and 3106. First, plaintiff sustained injuries while she was alighting from a parked vehicle. Although the term "parked" is not defined in the no-fault act, this Court has indicated that "[p]arking is merely one form of stopping". Bensinger v Happyland Shows, Inc, 44 Mich App 696, 702; 205 NW2d 919 (1973), lv den 389 Mich 794 (1973). Plaintiff was injured as she was exiting the bus by the steps. The bus must have been stopped in

order for her to alight from it.

Second, plaintiff's injuries arose out of the use of a motor vehicle as a motor vehicle. The trial court found the case at bar to be similar to Krueger v Lumbermen's Mutual Casualty Co, 112 Mich App 511; 316 NW2d 474 (1982). The fact that plaintiff's injuries resulted from her slipping on debris which accumulated on the bus, rather than from a defect in the bus itself, is of no moment to this case. In Krueger, the plaintiff was injured when he stepped from a motor vehicle into a hole in the ground.

Just as plaintiff in the case at bar could have tripped on debris in any stairwell, the plaintiff in Krueger could have tripped on a pothole while walking down the sidewalk. What was relevant in Krueger is that the plaintiff tripped on a pothole while alighting from a motor vehicle. Similarly, what is relevant to the case at bar is that plaintiff tripped on debris while using the bus as a motor vehicle.

Next, plaintiff briefly raises the issue of whether she suffered a serious impairment of body function. Plaintiff virtually admits that the trial court properly dismissed her claim on this issue under Cassidy v McGovern, 415 Mich 483; 330 NW2d 22 (1982). She indicates that she wishes to preserve this issue in the event the state of the law on serious impairment changes. While we do not speculate on whether plaintiff has properly preserved this issue if the Supreme Court should at some time in the future modify the Cassidy decision, we do agree with the trial court that summary disposition on the serious impairment issue was appropriate.

Affirmed. Costs to defendants.

/s/ Robert B. Burns
/s/ Richard M. Maher
/s/ Francis D. Brouillette