

STATE OF MICHIGAN
COURT OF APPEALS

TIMOTHY NEWTON,

UNPUBLISHED
January 19, 1995

Plaintiff-Appellant,

v

No. 163754
LC No. 91-12775

DOROTHY CAROL LUND,

Defendant-Appellee.

Before: Murphy, P.J., and Griffin and W.A. Crane,* JJ.

PER CURIAM.

Plaintiff appeals a judgment of no cause of action in favor of defendant. Plaintiff brought a negligence action against defendant after defendant's car collided with plaintiff's motorcycle and injured plaintiff. There was a jury trial. The trial court granted plaintiff's motion for a directed verdict on the issues of defendant's negligence and plaintiff's comparative negligence. However, the jury determined that plaintiff was not entitled to recover damages because plaintiff did not suffer a serious impairment of body function. MCL 500.3135(1); MSA 24.13135(1). Plaintiff moved for judgment notwithstanding the verdict (JNOV) or new trial, but the trial court denied the motion. Plaintiff appeals as of right. We affirm.

Contrary to plaintiff's argument, the trial court properly submitted to the jury the question of whether the plaintiff suffered a serious impairment of body function. If reasonable minds can differ about whether the plaintiff suffered a serious impairment of body function, the issue must be submitted to the jury. DiFranco v Pickard, 427 Mich 32, 58; 398 NW2d 896 (1986). We have reviewed the record and conclude that reasonable minds could differ about whether plaintiff suffered serious impairment of body function. Therefore, the issue was properly submitted to the jury. For the same reason, the trial court properly refused to grant plaintiff's motion for JNOV. Thorin v Bloomfield Hills Bd of Ed, 203 Mich App 692, 696; 513 NW2d 230 (1994). We also find that the trial court did not abuse its discretion in denying plaintiff's motion for new trial because the jury's finding that plaintiff's injuries did not constitute serious impairment of body function was not against the great weight of the evidence. MCR 2.611(A)(1)(e); Bordeaux v Celotex Corp, 203 Mich App 158, 170; 511 NW2d 899 (1993).

Plaintiff's argument that the trial court erred in not awarding plaintiff damages for his initial impairment is not properly before this Court because it is raised for the first time on appeal. Therefore, we will not review it. Booth Newspapers, Inc, v Univ of Michigan Bd of Regents, 444 Mich 211, 234; 507 NW2d 422 (1993).

Affirmed.

/s/ William B. Murphy
/s/ Richard Allen Griffin
/s/ William A. Crane

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