STATE OF MICHIGAN

COURT OF APPEALS

CHRISS A. PEASE,

Plaintiff-Appellant,

v

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED
September 26, 1995

No. 170229
LC No. 93-030312-CK

Before: Griffin, P.J., and Sawyer and C. D. Corwin,* JJ.

PER CURIAM.

In this first-party no-fault case, plaintiff appeals as of right an order granting summary disposition in favor of defendant pursuant to MCR 2.116(C)(10). We affirm.

While plaintiff was exiting her vehicle, she sustained personal injuries when she was approached by two thieves who slammed the opened car door against her shoulder in an effort to steal her purse. Plaintiff brought this action against her no-fault carrier after defendant refused to continue paying for the medical expenses necessitated by this incident.

Plaintiff contends that the trial court erred in ruling that her injuries are not compensable by MCL 500.3105(1); MSA 24.13105(1). On appeal, plaintiff relies heavily upon this Court's opinion in Bourne v Farmers Ins Exchange, 203 Mich App 341; 512 NW2d 80 (1994). However, Bourne was recently reversed by our Supreme Court in Bourne v Farmers Ins Exchange, 449 Mich 193, 195-196, 198; 534 NW2d 491 (1995). There, our Supreme Court held that a no-fault insurance carrier is not obligated to cover injuries received during an assault incident to a "carjacking" because such injuries are unrelated to "the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle." [Emphasis added.] Id. at 195-196, quoting MCL 500.3105(1); MSA 24.13105(1).

In Thornton v Allstate Ins Co, 425 Mich 643, 659-660; 391 NW2d 320 (1986), our Supreme Court constructed MCL 500.3105(1); MSA 24.13105(1) to hold that the mere involvement of an automobile in an injury is not alone sufficient to invoke no-fault coverage. The Supreme Court in Thornton emphasized that there must be more than a "but for" incidental or fortuitous connection between the damages sustained and the use of a motor vehicle. Instead, our Supreme Court held that the Legislature chose to provide coverage only for those circumstances when the injury was "directly related to [the involved automobile's] character as a motor vehicle." Id. at 659. Accordingly, and contrary to plaintiff's argument on appeal,

> [t]he mere foreseeability of an injury as an incident to a given use of a motor vehicle is not enough to provide no-fault coverage where the injury itself does not result from the use of the motor vehicle as a motor vehicle. [Thornton, supra at 661.]

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

Here, plaintiff's injuries were not sustained while her automobile was being used as a motor vehicle. Rather, her injury occurred while the door to her automobile was being used as a club or weapon by the thieves in an effort to incapacitate plaintiff during a robbery. Because the relationship between the functional character of the motor vehicle and plaintiff's injuries was not direct and was instead quite incidental, we are persuaded that the trial court properly granted defendant's motion for summary disposition.

Affirmed.

/s/ Richard Allen Griffin
/s/ David H. Sawyer
/s/ Charles D. Corwin