

STATE OF MICHIGAN
COURT OF APPEALS

KENNETH MOROSINI,

Plaintiff-Appellee,

v

CITIZENS INSURANCE COMPANY OF
AMERICA,

Defendant-Appellant.

FOR PUBLICATION
October 20, 1998
9:10 a.m.

No. 186760
Macomb Circuit Court
LC No. 95-001313 AV

ON REMAND

Before: Holbrook, Jr., and Fitzgerald and Smolenski, JJ.

PER CURIAM.

This case is before us on remand from the Supreme Court for reconsideration in light of *McKenzie v Auto Club Ins Ass'n*, ___ Mich ___; ___ NW2d ___ (Docket No. 103676, decided July 14, 1998). In *McKenzie*, the Court held that whether an injury arises out of the use of a motor vehicle as a motor vehicle under MCL 500.3105(1); MSA 24.13105(1) turns on whether the injury is closely related to the transportational function of motor vehicles. Because the plaintiff in *McKenzie* was using a camper/trailer attached to his pickup truck as a sleeping accommodation at the time of his injury, the Court concluded that the use was too far removed from the transportational function to constitute use of the camper/trailer as a motor vehicle at the time of the injury.

The facts of the present case are succinctly set forth in *Morosini v Citizens Ins Co of America*, 224 Mich App 70; 568 NW2d 346 (1997). Plaintiff's vehicle was struck from the rear by another motorist. The plaintiff exited his vehicle and was in the process of examining the damage to his vehicle when he was assaulted by the driver of the other vehicle. We held that while assaults are not ordinarily part of the "normal risk" of driving, that injuries arising from assaults are compensable under the no-fault act only when the assault arises out of a "normal activity associated with the use of a vehicle as a motor vehicle." Thus, we concluded that there was a sufficient causal nexus between the injuries sustained by plaintiff in the assault and the use of the motor vehicle as a motor vehicle because plaintiff's injuries were sustained in the course of fulfilling his statutory obligations as an operator of a motor vehicle to inspect for damage and exchange information with the driver of the other vehicle following a motor vehicle accident. MCL 257.618, 257.619; MSA 9.2318, 9.2319. This holding is consistent with the approach that focuses on transportational function because the fulfillment of statutory obligations with regard to

motor vehicle accidents is intimately connected with the transportational function of a motor vehicle.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ E. Thomas Fitzgerald

/s/ Michael R. Smolenski