

STATE OF MICHIGAN
COURT OF APPEALS

ROCHELLE STOUDMIRE,

Plaintiff-Appellant,

v

CITIZENS INSURANCE COMPANY OF
AMERICA,

Defendant-Appellee.

UNPUBLISHED

February 19, 1999

No. 205621

Wayne Circuit Court

LC No. 96-644642 NF

Before: Gribbs, P.J., and Saad and Paul H. Chamberlain*, JJ.

MEMORANDUM.

Plaintiff Rochelle Stoudmire appeals of right from the circuit court order granting the motion for summary disposition filed by defendant Citizens Insurance Company of America. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff approached a car for the stated purpose of purchasing illicit drugs. She leaned into the car through the partially open driver's side window, and handed the driver money. The car suddenly accelerated forward. The forward motion caused plaintiff to move alongside the car. As she did so her body hit a parked car. She sustained a broken leg.

Defendant denied plaintiff's claim for no-fault benefits on the grounds that her injuries did not arise out of the ownership, operation, maintenance, or use of a vehicle as a motor vehicle, as required by MCL 500.3105(1); MSA 24.13105(1). Plaintiff filed suit, and both parties moved for summary disposition pursuant to MCR 2.116(C)(10). The trial court denied plaintiff's motion and granted defendant's motion.

This Court reviews a trial court's decision on a motion for summary disposition de novo. *Baker v Arbor Drugs, Inc.*, 215 Mich App 198, 202; 544 NW2d 727 (1996).

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

On appeal, plaintiff argues that her injury resulted from the use of a motor vehicle as a motor vehicle. The causal connection between her injury and the use of the vehicle was more than incidental or fortuitous. *Thornton v Allstate Ins Co*, 425 Mich 643, 660; 391 NW2d 320 (1986). Her injuries would not have occurred had the driver not pressed on the accelerator and used the vehicle as a motor vehicle.

We disagree, and affirm the decision of the trial court. Under § 3105(1), coverage is available for “injuries resulting from the use of motor vehicles when closely related to their transportation function and only when engaged in that function.” *McKenzie v Auto Club Ins Ass’n*, 458 Mich 214, 220; 580 NW2d 424 (1998). In the instant case, the motor vehicle was merely the situs of an illicit narcotics transaction. If a vehicle serves merely as the situs of an injury, an insufficient causal connection exists between the vehicle and the injury. *Bourne v Farmers Ins Exchange*, 449 Mich 193, 200; 534 NW2d 491 (1995). A narcotics transaction is in no way related to the transportation function of a vehicle. Cf. *Morosini v Citizens Ins Co of America (On Remand)*, ___ Mich App ___, ___ NW2d ___ (Docket No. 186760, issued October 20, 1998 at 9:10 a.m.) (injuries suffered in assault during inspection of car following collision compensable because inspecting for damages related to transportation function of vehicle). Here, plaintiff’s injury was related to the transaction in that the driver decided to take plaintiff’s money without furnishing the requested narcotics. Plaintiff attempted to retrieve her money and was injured. Such a turn of events could have occurred had the transaction taken place in another location.

Affirmed.

/s/ Roman S. Gibbs

/s/ Henry William Saad

/s/ Paul H. Chamberlain