

STATE OF MICHIGAN  
COURT OF APPEALS

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KATHLEEN FAIRCLOTH,

Plaintiff-Appellant,

V

MACKINAC BRIDGE AUTHORITY,

Defendant-Appellee.

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UNPUBLISHED

December 21, 2001

No. 226463

Court of Claims

LC No. 98-017024-CM

Before: Meter, P.J., and Jansen and Gotham\*, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for dismissal under MCR 2.504(B)(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was injured while riding her bicycle across the Mackinac Bridge as part of a special event. She fell while crossing an expansion joint on the bridge. These joints are necessary to allow the bridge to move during wind and weather conditions. Defendant knew that the joints were a danger to bicyclists, and it placed mats over the joints during bicycle events. Plaintiff asserted that the mats were used improperly, leaving the bridge dangerous and not reasonably safe for public travel. She argued that her case fell within the public highway exception to governmental immunity. The trial court disagreed and granted the motion to dismiss.

The immunity conferred upon governmental agencies is broad, and the statutory exceptions are to be narrowly construed. *Nawrocki v Macomb Co Rd Comm*, 463 Mich 143, 158; 615 NW2d 702 (2000). The highway exception waives the absolute immunity of governmental units with regard to defective highways under their jurisdiction. *Id.* At the time of the accident, MCL 691.1402 provided:

Each governmental agency having jurisdiction over any highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. Any person sustaining bodily injury or damage to his or her property by reason of failure of any governmental agency to keep any highway under its jurisdiction in reasonable repair, and in condition reasonably safe and fit

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

for travel, may recover the damages suffered by him or her from the governmental agency... . The duty of the state and county road commissions to repair and maintain highways, and the liability therefore, shall extend only to the improved portion of the highway designed for vehicular traffic and shall not include sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular traffic.

The statute establishes a duty to maintain and repair highways; it does not establish a second duty to keep the highway reasonably safe. *Nawrocki, supra* at 160. Plaintiff's allegations do not fall within the public highway exception. There was no showing that defendant was negligent in maintaining and repairing the highway. Plaintiff does not claim that there was a design or maintenance defect in expansion joints. Her claim is based on negligence in the placement of the mats and in failing to adequately direct the bicyclists onto the mats. These allegations do not show a failure to maintain and repair the bridge and do not avoid governmental immunity. See *Nawrocki, supra* at 183.

Affirmed.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Roy D. Gotham