

STATE OF MICHIGAN
COURT OF APPEALS

AHLAM BAHRI, a/k/a AHLAM BAHRL,

Plaintiff-Appellant,

v

EDNA GRACE GOTTIS,

Defendant-Appellee.

UNPUBLISHED
February 22, 2002

No. 227913
Oakland Circuit Court
LC No. 99-018046-NI

Before: Smolenski, P.J., and Doctoroff and Owens, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action to recover damages for injuries sustained in an automobile accident. The trial court dismissed her complaint, finding that plaintiff had failed to prove that her injuries met the serious impairment threshold.

We review the trial court's ruling on a motion for summary disposition de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).

A person is subject to tort liability for automobile negligence if the injured person suffered "death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). A serious impairment of body function is defined as "an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life." MCL 500.3135(7). Whether a person suffered a serious impairment of body function is a question of law for the court if there is no factual dispute about the nature and extent of the plaintiff's injuries or there is a factual dispute but it is not material to the determination whether the plaintiff suffered a serious impairment of body function. MCL

500.3135(2)(a). Because the statutory definition of serious impairment of body function is the same as that adopted in *Cassidy v McGovern*, 415 Mich 483; 330 NW2d 22 (1982), it is appropriate to refer to *Cassidy* and cases decided thereunder in deciding this case. *Kern v Blethen-Coluni*, 240 Mich App 333, 342; 612 NW2d 838 (2000).

First, we believe the evidence created at least a question of fact regarding whether plaintiff's injury was objectively manifested. Second, defendant does not specifically challenge that an important body function was impaired. However, the evidence does not show that the impairment was serious. Plaintiff testified that as a result of her injury, she had continuing neck and back pain, headaches, dizziness, tremors, and nervousness or panic attacks. Because of these problems, she voluntarily limited her usual activities: she did not go to the gym, limited her housework, and did not take her children out. However, she was still able to drive and to leave the home for business and social reasons. Therefore, any injury did not affect her ability to lead a normal life. *Mekler v Bigham*, 147 Mich App 716, 720; 383 NW2d 95 (1985); *Franz v Woods*, 145 Mich App 169, 177; 377 NW2d 373 (1985); *Denson v Garrison*, 145 Mich App 516, 520; 378 NW2d 532 (1985). While plaintiff's expert opined that plaintiff's injury was serious, the issue was one of law for the court, MCL 500.3135(2)(a), and a party's expert is not qualified to interpret and apply the law. *Hottmann v Hottmann*, 226 Mich App 171, 179; 572 NW2d 259 (1997).

Affirmed.

/s/ Michael R. Smolenski

/s/ Martin M. Doctoroff

/s/ Donald S. Owens