

STATE OF MICHIGAN  
COURT OF APPEALS

---

JAMES MEANS,

Plaintiff-Appellant,

and

BOB MEANS,

Plaintiff,

V

DAVID STEPHEN LOWRY and MILLTECH,  
INC.,

Defendants-Appellees.

---

UNPUBLISHED

July 16, 2002

No. 230984

Wayne Circuit Court

LC No. 99-903398-NI

Before: Hood, P.J., and Saad and E. M. Thomas,\* JJ.

MEMORANDUM.

Plaintiff appeals as of right the judgment entered after defendants' motion for summary disposition was granted in this no-fault action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. *Maiden v Rozwood*, 461 Mich 109; 597 NW2d 817 (1999). In evaluating the motion, the court considers the evidence submitted by the parties in a light most favorable to the party opposing the motion. *Id.* Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. *Id.*

Under MCL 500.3135 a person remains subject to tort liability for noneconomic loss caused by his use of a motor vehicle only if the injured person has suffered death, serious impairment of a body function, or permanent serious disfigurement. The issue of whether an injured person has suffered serious impairment of body function is a question of law if there is no factual dispute concerning the nature and extent of the person's injuries, or if there is a dispute that is not material to the determination. MCL 500.3135(2)(a).

---

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

In determining whether a plaintiff has suffered a serious impairment of body function, the trial court must consider the nature and extent of the injuries. *May v Sommerfield*, 239 Mich App 197, 202-203; 607 NW2d 422 (1999). The court is required to make appropriate findings whether the plaintiff has an objectively manifested injury, whether an important body function is impaired, and whether that impairment affects the plaintiff's general ability to lead his normal life. *Id.*

A court should compare plaintiff's lifestyle before and after the accident in determining whether a factual dispute exists with respect to the extent of plaintiff's injuries. *May v Sommerfield (After Remand)*, 240 Mich App 504, 506; 617 NW2d 920 (2000). A plaintiff must show that his general ability to lead his normal life has been significantly altered by his injury. *Miller v Purcell*, 246 Mich App 244, 250; 631 NW2d 760 (2001).

There is no showing that the trial court erred in finding that plaintiff did not demonstrate an objectively manifested injury. The objective evidence showed no difference in plaintiff's condition from his pre-accident status. Plaintiff failed to show that his ability to lead a normal life has been significantly altered by his injury, and the court properly granted summary disposition.

Affirmed.

/s/ Harold Hood  
/s/ Henry William Saad  
/s/ Edward M. Thomas