

STATE OF MICHIGAN
COURT OF APPEALS

SHEENA KELLEY and ROLAND KELLEY,

Plaintiffs-Appellants,

v

CITIZENS INSURANCE COMPANY,

Defendant-Appellee,

and

MEIJER, INC.,

Defendant.

UNPUBLISHED

May 25, 2001

No. 221389

Wayne Circuit Court

LC No. 98-826020-NI

Before: Jansen, P.J., and Zahra and Owens, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs drove to a Meijer store and parked next to a snow-covered median. Sheena Kelley exited the vehicle, and took several steps toward the rear of the vehicle. She slipped on ice and fell to the ground, sustaining injuries.

Plaintiffs filed suit against Meijer and defendant, their no-fault insurer, alleging negligence and nuisance against Meijer and seeking personal injury protection (PIP) benefits from defendant. Plaintiffs settled their claim against Meijer. Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that Sheena Kelley was not entitled to PIP benefits because her injuries arose from the use of a parked vehicle, and none of the statutory exceptions applied. MCL 500.3106(1); MSA 24.13106(1). The trial court granted the motion, noting that Sheena Kelley had no contact with the vehicle when she fell, and that the vehicle was not being used as a motor vehicle at the time.

We review de novo a trial court's decision on a motion for summary disposition. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

An insurer must pay PIP benefits for accidental injury arising out of the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle. MCL 500.3105(1); MSA 24.13105(1). An injury arising from the use of a parked vehicle is generally excluded from coverage, except under certain circumstances, including an injury sustained by a person occupying, entering into, or alighting from a parked vehicle. MCL 500.3106(1)(c); MSA 24.13106(1)(c). The underlying policy of the parked vehicle exception is to ensure that an injury that is covered by the No-Fault Insurance Act, MCL 500.3101(1) *et seq.*; MSA 24.13101(1) *et seq.*, involves the use of a parked vehicle as a motor vehicle. An injury which occurs while a person occupies, enters into, or alights from a vehicle must be directly related to the vehicle's character as a motor vehicle. The injury must have a causal relationship to the parked vehicle that is more than incidental or fortuitous. *Putkamer v Transamerica Ins Corp*, 454 Mich 626, 633-636; 563 NW2d 683 (1997). For an injury to arise out of the use of a vehicle as a motor vehicle, the injury must be closely related to the transportation function of the vehicle. *Morosini v Citizens Ins Co*, 461 Mich 303, 310; 602 NW2d 828 (1999).

Plaintiffs argue that the trial court erred by granting defendant's motion for summary disposition. We disagree and affirm. It was undisputed that plaintiffs' vehicle was parked when Sheena Kelley was injured. Sheena Kelley's entitlement to PIP benefits depended on whether she was alighting from the vehicle at the time she was injured. The phrase "alighting from" in MCL 500.3106(1)(c); MSA 24.13106(1)(c) is not defined. However, this Court has interpreted the phrase as requiring "some movement associated with physically removing one's person from the immediate confines of the vehicle." *Harkins v State Farm Mutual Auto Ins Co*, 149 Mich App 98, 101; 385 NW2d 741 (1986); see also *Royston v State Farm Mutual Auto Ins Co*, 130 Mich App 602; 344 NW2d 14 (1983). Sheena Kelley had completed the process of alighting from the vehicle when she was injured; therefore, she was not alighting from the vehicle at the time she was injured. *Id.*, 607; *Harkins, supra*, p 101. The fact that Sheena Kelley was next to her vehicle when she fell gave the vehicle at most an incidental causal connection to her injuries. Injuries such as those sustained by Sheena Kelley could have occurred in any setting in which ice and snow were present, and were not closely related to the transportation function of the vehicle. *Putkamer, supra*; *Morosini, supra*. The trial court properly granted summary disposition in favor of defendant.

Affirmed.

/s/ Kathleen Jansen
/s/ Brian K. Zahra
/s/ Donald S. Owens