STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0942

John Arthur Olson,
Appellant,

vs.

Bristol West Insurance Company,
Respondent.

Filed January 6, 2020
Affirmed
Bjorkman, Judge

Blue Earth County District Court
File No. 07-CV-19-222

Randall G. Knutson, Knutson+Casey, PC, Mankato, Minnesota (for appellant)

Tania K. Lex, Law Office of Paul W. Godfrey, Eagan, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Bjorkman, Judge; and Cochran, Judge.

U N P U B L I S H E D O P I N I O N

BJORKMAN, Judge

Appellant challenges summary judgment dismissing his action for no-fault benefits, arguing that the district court erred in concluding that his injury did not arise out of the maintenance or use of a motor vehicle. We affirm.

FACTS

On September 15, 2017, appellant John Olson was driving past a parking lot when he observed a truck with an attached trolley moving slowly with its driver's door open and nobody inside. Olson saw a man run after the truck, attempt to jump in, and fall. Olson stopped and exited his vehicle. He started running "really fast" toward the truck, intending to jump into the truck and stop it. But when he was approximately 20 feet from the truck, Olson fell, injuring his right wrist.

Olson sought no-fault benefits from his automobile insurer, respondent Bristol West Insurance Company. Bristol West denied coverage.

Olson initiated this action, seeking a determination that he is entitled to no-fault benefits. Olson and Bristol West both moved for summary judgment. The district court granted Bristol West's motion and dismissed Olson's claim, reasoning that Olson's injury did not arise out of the maintenance or use of a motor vehicle. Olson appeals.

D E C I S I O N

A district court must grant summary judgment if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01. We review summary judgment de novo, evaluating whether genuine issues of material fact exist and whether the district court properly applied the law. *See Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017).

The Minnesota No-Fault Automobile Insurance Act requires no-fault insurers to provide basic economic loss benefits for injuries "arising out of the maintenance or use of a motor vehicle." Minn. Stat. § 65B.44, subd. 1(a) (2018). The phrase "maintenance or

use of a motor vehicle" refers specifically to "maintenance or use of a motor vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into, and alighting from it." Minn. Stat. § 65B.43, subd. 3 (2018). Benefits are limited to cover only those risks associated with motoring. *Classified Ins. Corp. v. Vodinelich*, 368 N.W.2d 921, 923 (Minn. 1985). The party claiming no-fault benefits bears the burden of showing the injury arose out of the maintenance or use of a vehicle. *LaValley v. Nat'l Family Ins. Corp.*, 517 N.W.2d 602, 605 (Minn. App. 1994), *review denied* (Minn. Aug. 24, 1994).

Minnesota courts use a three-part test to determine if an injury arose out of the maintenance or use of a motor vehicle, looking to the particular facts of the case. *Cont'l W. Ins. Co. v. Klug*, 415 N.W.2d 876, 877-78 (Minn. 1987). Under this test, we first consider the extent of causation between the vehicle and the injury. *Id.* at 878. "The mere fact that an accident occurred while the injured party was on, in, or near an automobile is not of itself dispositive." *Barry v. Ill. Farmers Ins. Co.*, 386 N.W.2d 299, 301 (Minn. App. 1986), *review denied* (Minn. June 30, 1986). Rather, the injury must be "a natural and reasonable incident or consequence of the use of the vehicle" and the vehicle must be "an active accessory to the injury sustained." *N. River Ins. Co. v. Dairyland Ins. Co.*, 346 N.W.2d 109, 114 (Minn. 1984). If the party claiming no-fault benefits shows "the requisite degree of causation," we next determine "whether an act of independent significance occurred, breaking the causal link between 'use' of the vehicle and the injuries inflicted." *Klug*, 415 N.W.2d at 878. If not, we consider whether the injuries resulted from "use of an automobile for transportation purposes." *Id.*

Olson's claim for no-fault benefits fails under the first part of the *Klug* test because the undisputed facts do not establish the requisite causal link between his fall and the truck. His argument that the truck was an active accessory because it was moving is unavailing. Olson may have intended to enter and bring the truck to a stop, but he never actually touched the truck. Mere proximity to a vehicle at the time of a slip and fall is generally an "insufficient nexus" between the vehicle and the injury. *Marklund v. Farm Bureau Mut. Ins. Co.*, 400 N.W.2d 337, 341 (Minn. 1987) (observing that premises hazards resulting in slips and falls in proximity to motor vehicles are not within "the parameters of hazards whose costs should be allocated to the activity of motoring"); *see also Christensen v. Gen. Accident Ins.*, 482 N.W.2d 510, 513 (Minn. App. 1992) (passenger who fell on ice after exiting car was not "alighting from" vehicle even though she had her hand on car to steady herself), *review denied* (Minn. May 15, 1992). And Olson does not identify any facts that bridge that causal gap, such as proximity to the vehicle as part of a normal routine, *see Barry*, 386 N.W.2d at 301 (concluding that claimant's injuries arose out of use or maintenance of vehicle when she backed it out of the garage, left it running while she closed the garage door, and slipped on ice while returning to it) or an attempt to avoid an oncoming vehicle, *Nadeau v. Austin Mut. Ins. Co.*, 350 N.W.2d 368, 371 (Minn. 1984). Consequently, while the precise cause of Olson's fall and resulting injury may be unknown,[1] the undisputed facts show the truck was not an active accessory.

[1] Olson testified that there was no snow, ice, or moisture on the ground. And the district court observed that Olson's fall "was not caused by any known condition."

Olson nonetheless contends the runaway truck caused his injury because he had a legal duty, under Minnesota's Good Samaritan statute, to intervene. This argument is unavailing for two reasons. First, the Good Samaritan statute provides: "A person at the scene of an emergency who knows that another person is exposed to or has suffered grave physical harm shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the exposed person." Minn. Stat. § 604A.01, subd. 1 (2018). Nothing in the record indicates that Olson reasonably believed anyone was in danger. To the contrary, his deposition testimony indicates that the truck was moving slowly, he was not acting to render aid to the man who fell trying to get into the truck, and there were no other people in the truck's path—only some parked cars and the building that the truck eventually struck. And the Good Samaritan statute expressly limits its application to reasonable interventions that do not endanger the actor—such as transporting an injured individual to the hospital. *See, e.g.*, *Swenson v. Waseca Mut. Ins. Co.*, 653 N.W.2d 794, 798-99 (Minn. App. 2002), *review denied* (Minn. Feb. 26, 2003). Olson's decision to run toward a slowly moving vehicle that was not endangering anyone was a generous impulse, but it was not required under the Good Samaritan statute.

Second, even if Olson had a duty to intervene to stop the driverless truck, such a duty does not mean his fall arose from the maintenance or use of a motor vehicle. *See Steinfeldt v. AMCO Ins. Co.*, 592 N.W.2d 877, 880 (Minn. App. 1999) (holding that injuries sustained by passerby who fell from an overpass while attempting to aid victims of a motor vehicle accident did not arise out of the maintenance or use of a vehicle); *Farmers Ins. Grp. v. Chapman*, 416 N.W.2d 857, 859 (Minn. App. 1987) (rejecting argument that statute

requiring hunters to unload their rifles before transporting them makes accidental gunshot injuries incidental to the use of the vehicle). And Olson's claim fails the other two prongs of the *Klug* test. His injury was actually caused by the intervening, non-vehicle-related fall, and nothing about the injury was related to actual use of the truck.

On this record, the district court did not err by concluding that Olson's injury was not related to the maintenance or use of a vehicle.

Affirmed.