

[Cite as *Motorists Mut. Ins. Co. v. Twin Valley Behavioral Health Care*, 2004-Ohio-3492.]

IN THE COURT OF CLAIMS OF OHIO

MOTORISTS MUTUAL INSURANCE :
COMPANY, et al. :

Plaintiffs :

v. :

CASE NO. 2003-10601-AD

TWIN VALLEY BEHAVIORAL HEALTH :
CARE :

MEMORANDUM DECISION

Defendant

::::::::::::::::::::

FINDINGS OF FACT

{¶1} 1) On May 22, 2003, an automobile owned by plaintiff, Kulyanee Srinilta, was paint damaged while parked on the grounds of defendant, Twin Valley Behavioral Health Care.

{¶2} 2) Plaintiff, Kulyanee Srinilta, filed this complaint seeking to recover \$500.00, the insurance coverage deductible for automotive repair resulting from the May 22, 2003, incident. Plaintiff, Motorists Mutual Insurance Company, filed requesting damages in the amount of \$280.97 for reimbursement of funds disbursed to cover repair costs to Srinilta's vehicle. The requisite filing fee was paid.

{¶3} 3) Defendant admitted liability and acknowledged plaintiff, Kulyanee Srinilta, suffered damages in the amount of \$500.00. However, defendant asserted plaintiff, Motorists Mutual Insurance Company is not entitled to pursue a subrogation claim in this court. See *Community Ins. Co. v. Dept. of Transp.*, 92 Ohio St. 3d 376, 2001-Ohio-208.

CONCLUSIONS OF LAW

{¶4} 1) An insurer who has been granted the right of subrogation by an insured, or whose behalf the insurer has paid expenses incurred as a result of negligent conduct on

the part of the state, is subject to the statute (R.C. 2743.02(D)), which mandates reduction in recoveries against the state by the "aggregate of insurance proceeds . . . received by the claimant." *Community Ins.*, id. In the instant claim, any damages plaintiff Kulyanee Srinilta is entitled to recover, would be reduced by any insurance proceeds received from plaintiff, Motorist Mutual Insurance Company. See R.C. 2743.02(D). As a subrogated insurance carrier, plaintiff, Motorists Mutual, acquires no greater rights against defendant than its insured, Srinilta, and therefore, cannot recover any portion of its insurance payments from defendant. Such a ruling is consistent with legislative intent to preserve public funds while also providing reimbursement for an uninsured claimant. See *Community Ins.*, supra, at 378. Consequently, the claim of plaintiff, Motorist Mutual, is dismissed.

{¶5} 2) Negligence on the part of defendant has been shown in respect to the loss of plaintiff, Srinilta. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD. The court finds defendant liable to plaintiff, Srinilta in the amount of \$500.00.

{¶6} Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff, Kulyanee Srinilta in the amount of \$500.00. The claim of plaintiff, Motorist Mutual Insurance Company is DISMISSED. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Steven J. Zeehandelar
Cheek & Zeehandelar
471 East Broad Street, 12 Floor
Columbus, Ohio 43215

Attorney for plaintiffs

Janice R. Franke, Staff Counsel
Ohio Department of Mental Health
30 East Broad Street, 8th Floor
Columbus, Ohio 43215-3430

For Defendant

RDK/laa
5/21
Filed 6/2/04
Sent to S.C. reporter 6/29/04