STATE OF MICHIGAN

COURT OF APPEALS

NICOLE CHRISTINE NEWTON, Plaintiff-Appellant,	UNPUBLISHED April 20, 2001
v	No. 220649 Oakland Circuit Court
CITIZENS INSURANCE COMPANY, Defendant-Appellee.	LC No. 98-004883-NF

Before: Talbot, P.J., and Sawyer and F. L. Borchard*, 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 suffered whiplash injuries in an automobile accident. Several months later, she sought treatment from a chiropractor. During an adjustment, plaintiff suffered a vertebral artery dissection, resulting in serious injury. Defendant denied plaintiff's application for personal injury protection (PIP) benefits on the ground that they did not arise out of the use of her motor vehicle. The trial court agreed and dismissed the complaint.

We review the trial court's ruling on a motion for summary disposition de novo on appeal. *Gibson v Neelis,* 227 Mich App 187, 189; 575 NW2d 313 (1997). Statutory interpretation is a question of law which is also reviewed de novo. *Markillie v Livingston Co Bd of Rd Comm'rs,* 210 Mich App 16, 21; 532 NW2d 878 (1995).

An insurer is liable to pay personal injury protection benefits "for accidental bodily 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). "[W]hether an injury arises out of the use of a motor vehicle 'as a motor vehicle' under § 3105 turns on whether the injury is closely related to the transportational function of motor vehicles." *McKenzie v Auto Club Ins Ass'n,* 458 Mich 214, 225-226; 580 NW2d 424 (1998). That means that the injury for which benefits are sought must be closely related to the vehicle's function as a vehicle. As this Court explained in *Keller v Citizens Ins Co of America,* 199 Mich App 714; 502 NW2d 329 (1993):

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

> In order for an injury to arise out of the use of an automobile, there must be more than an incidental or fortuitous connection between the injury and the use of the automobile. Moreover, it is insufficient to show that, but for the automobile, the injury would not have occurred. Thus, ' "[t]he automobile must not merely contribute to cause the condition which produces the injury, but must, itself, produce the injury." ' [*Id*. at 715-716 (citations omitted).]

Considering the evidence in a light most favorable to the plaintiff, she suffered whiplash injuries while using her motor vehicle as a motor vehicle. However, the injuries for which she seeks benefits, i.e., the vertebral artery dissection and subsequent health problems stemming therefrom, were not produced by the accident or the whiplash injuries it caused, but by the treatment rendered by the chiropractor. It is true that but for the accident, plaintiff would not have had the whiplash injuries, but for the whiplash injuries, plaintiff would not have sought treatment from the chiropractor, and but for the chiropractic treatment, she would not have suffered the vertebral artery dissection. However, "[w]ithout a relation that is more than 'but for,' incidental, or fortuitous, there can be no recovery of PIP benefits." *Thornton v Allstate Ins Co*, 425 Mich 643, 660; 391 NW2d 320 (1986). Rather, the injury itself must result from the use of the motor vehicle as a motor vehicle. *Id*. at 661. Because the vertebral artery dissection did not itself result from the use of the motor vehicle as a motor vehicle, the trial court did not err in concluding that plaintiff was not entitled to benefits under § 3105.

Affirmed.

/s/ Michael J. Talbot
/s/ David H. Sawyer
/s/ Fred L. Borchard