STATE OF MICHIGAN

COURT OF APPEALS

MARY LEE TOLBERT, a/k/a MARRY LEE TOLBERT, Plaintiff-Appellee,	UNPUBLISHED November 2, 2001
v	No. 225068 Genesee Circuit Court
STATE FARM INSURANCE COMPANY, Defendant-Appellant.	LC No. 99-065739-AV

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker*, JJ.

PER CURIAM.

Defendant appeals by leave granted from a circuit court order reversing a district court order granting defendant's motion for summary disposition. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant issued plaintiff a policy of no-fault automobile insurance. Under Section V of the policy, plaintiff was insured for up to $10,000 for accidental death or dismemberment. Section V provided in pertinent part:

> We will pay the amount shown in the schedule that applies for death, or *loss*, caused by accident. The *insured* has to be *occupying* or be struck by a land motor vehicle or trailer. The death or *loss* must be the direct result of the accident and not due to any other cause. The death or *loss* must occur within 90 days of the accident.
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> * * *
>
> The most we will pay because of the death of, or *loss* to, the *insured*, except as provided below, is shown under "Amounts" next to his or her name in the declarations page.
>
> The amount shown in the schedule for death or *loss* is doubled for an *insured* who, at the time of the accident, is using the vehicle's complete restraint system as recommended by the vehicle's manufacturer.

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

> If the *insured* dies as a result of this accident, any payment made or due for *loss* reduces the amount of the death payment.

Plaintiff was in her vehicle wearing her seat belt when an accident occurred. Plaintiff's fiancé, who was driving, was killed, but plaintiff was not injured. She claimed that she was entitled to accidental death benefits under Section V. The trial court disagreed, ruling that coverage was only triggered if the insured was killed or suffered a compensable loss in the accident. On appeal, the circuit court ruled that the policy language was ambiguous and, because ambiguities are to be construed against the drafter, plaintiff was entitled to judgment.

An insurance policy is much the same as any other contract. It is an agreement between the parties in which a court will determine what the agreement was and effectuate the intent of the parties. *Auto-Owners Ins Co v Churchman*, 440 Mich 560, 566; 489 NW2d 431 (1992). When determining what the parties' agreement is, the court should read the contract as a whole and give meaning to all the terms contained within the policy. The court must give the language contained in the policy its plain and ordinary meaning so that technical and strained constructions are avoided. *Royce v Citizens Ins Co*, 219 Mich App 537, 542; 557 NW2d 144 (1996). If the insurance contract sets forth definitions, the policy language must be interpreted according to those definitions. *Cavalier Mfg Co v Employers Ins of Wausau (On Remand)*, 222 Mich App 89, 94; 564 NW2d 68 (1997). Clear and unambiguous language may not be rewritten under the guise of interpretation. *South Macomb Disposal Auth v American Ins Co (On Remand)*, 225 Mich App 635, 653; 572 NW2d 686 (1997). Courts may not create ambiguities where none exist, but must construe ambiguous policy language in the insured's favor. *Id*. Policy language is ambiguous when, after reading the entire document, its language can be reasonably understood in different ways. *Royce, supra*. "However, if a contract, even an inartfully worded or clumsily arranged contract, fairly admits of but one interpretation, it may not be said to be ambiguous or fatally unclear." *Michigan Twp Participating Plan v Pavolich*, 232 Mich App 378, 382; 591 NW2d 325 (1998). The construction and interpretation of an insurance policy and whether the policy language is ambiguous are questions of law that are reviewed de novo on appeal. *Henderson v State Farm Fire & Cas Co*, 460 Mich 348, 353; 596 NW2d 190 (1999).

Reading only the schedule of payments and first paragraph cited above in conjunction, plaintiff contends that she is entitled to coverage. Those portions of Section V cannot be read in a vacuum; they are but parts of an integrated section which, when read as a whole, clearly and unambiguously requires that the accidental death or dismemberment coverage applies to the accidental death or dismemberment of the insured. Cf. *Cole v State Farm Mut Ins Co*, 359 Md 298, 306-307; 753 A2d 533 (2000). Accordingly, we conclude that the circuit court erred in reversing the trial court's ruling.

Reversed and remanded for reinstatement of the trial court's order. We do not retain jurisdiction.

/s/ Martin M. Doctoroff
/s/ Kurtis T. Wilder
/s/ Chad C. Schmucker