STATE OF MICHIGAN

COURT OF APPEALS

MOHAMMED ABDULLA,

Plaintiff-Appellee,

and

PRECISE MRI OF MICHIGAN, LLC,

Intervening Plaintiff-Appellee,

v

PROGRESSIVE SOUTHEASTERN INSURANCE COMPANY, GREAT AMERICAN INSURANCE COMPANY, and MICHIGAN ASSIGNED CLAIMS PLAN,

Defendants,

and

AUTO CLUB GROUP INSURANCE COMPANY,

Defendant-Appellant,

and

MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY,

Defendant-Appellee.

FOR PUBLICATION
July 25, 2024

Nos. 364797; 364866
Wayne Circuit Court
LC No. 21-006382-NF

Before: JANSEN, P.J., and REDFORD and D. H. SAWYER*, JJ.

JANSEN, P.J. (*dissenting*).

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

For the following reasons, I respectfully dissent. I would vacate the trial court order denying Auto Club Group Insurance Company's motion for summary disposition, and remand for further proceedings, because Mohammed Abdulla was barred from receiving personal protection insurance (PIP) benefits under the no-fault act, MCL 500.3101 *et seq*.

MCL 500.3101(1) provides that "the owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance . . . as required under this chapter[.]" "Owner" is defined by the act as "[a] person renting a motor vehicle or having the use of a motor vehicle, under a lease or otherwise, for a period that is greater than 30 days." MCL 500.3101(3)(*l*)(*i*). An individual is disqualified from PIP benefits for accidental bodily injury if, at the time of the accident, that individual "was the owner or registrant of a motor vehicle . . . involved in the accident with respect to which the security required by [MCL 500.3101] was not in effect." MCL 500.3113(b). "[T]he purpose of the no-fault act is to keep insurance premiums at affordable rates while providing victims of motor vehicle accidents assured, adequate, and prompt reparation for certain economic losses. Because the act is remedial, it must be construed liberally in favor of those who are the intended beneficiaries of the act." *Hmeidan v State Farm Mut Auto Ins Co*, 326 Mich App 467, 478; 928 NW2d 258 (2018) (quotation marks, brackets, and citations omitted).

The majority concludes that Abdulla was not an owner or registrant of the tractor, i.e., the actual cab or truck part of the tractor-trailer, that he was driving when he was in an accident. The name on the title to the tractor is Tornado Trucking, LLC, a limited-liability company owned solely by Abdulla. The accident occurred in December 2020 in Missouri, when Abdulla was hauling cargo on a trailer titled to nonparty Land Trucking, LLC, under a long-haul lease agreement. Tornado Trucking had a "bobtail" insurance policy covering the tractor for nontrucking liability and physical damage coverage only; the policy specifically excluded PIP coverage when the tractor was used to transport cargo. Land Trucking had its own policy covering the trailer. At the time, Abdulla lived with his parents, who had a no-fault insurance policy from Auto Club; however, the policy did not list Abdulla as a named insured or the tractor as a covered vehicle. Thus, there was no PIP policy covering the tractor at the time of the accident.

The majority concludes that Abdulla was not an owner or registrant of the tractor for purposes of MCL 500.3101(3) and MCL 500.3113(b), because Tornado Trucking held legal title to the tractor and appeared on its Michigan registration, the tractor was exclusively used for long-haul loads for Tornado Trucking and was otherwise stored at a truck stop, and Tornado Trucking, an LLC, was a separate legal entity from Abdulla.

It defeats the purpose of the no-fault act to conclude that Abdulla has no ownership over the tractor. Abdulla is the sole owner of the LLC, Tornado Trucking, which was the titled and registered owner of the tractor. Abdulla admitted he was sole exclusive driver of the tractor, that there were no other drivers for Tornado Trucking at the time of the accident, and that Tornado Trucking entered into contracts to haul cargo for companies like Land Trucking. Abdulla testified that Tornado Trucking owned the tractor less than a year before the accident occurred, but that he worked with the owner of Land Trucking for about three years. It is against public policy for Abdulla to isolate himself from liability under the no-fault act by setting up the LLC and putting the tractor in its name. In *Ardt v Titan Ins Co*, 233 Mich App 685, 690; 593 NW2d 215 (1999), this Court held that the provisions of the no-fault act "operate to prevent users of motor vehicles

from obtaining the benefits of personal protection insurance without carrying their own insurance through the expedient of keeping title to their vehicles in the names of" others, there, a family member. The statutory provisions "were enacted in furtherance of the sound public policy imperative that users of motor vehicles maintain appropriate insurance for themselves as indicated by their actual patterns of usage." *Id*. Thus, the term "having the use" of a motor vehicle for purposes of defining "owner" in MCL 500.3101 means "using the vehicle in ways that comport with concepts of ownership." *Id*. "[O]wnership follows from *proprietary* or *possessory* usage, as opposed to merely incidental usage under the direction or with the permission of another." *Id*. See also *Kessel v Rahn*, 244 Mich App 353, 359-360; 624 NW2d 220 (2001) ("the Legislature believes it reasonable to require someone to ensure insurance coverage if they have use of a vehicle for more than thirty days in ways that comport with ownership.").

Abdulla had use of the vehicle for a period longer than 30 days as he was the sole owner of the LLC and the only person to drive the tractor for a time period less than a year before the accident. MCL 500.3101(3)(*l*)(*i*). He is, at minimum, a co-owner of the tractor, and therefore was required to maintain a no-fault policy under MCL 500.3101(1). See *Ardt*, 233 Mich App at 692 ("where an uninsured motor vehicle involved in an accident has more than one owner, all the owners come under the statutory exclusion for [PIP] benefits."). To rely on resident-relative coverage through his father's policy would undermine the statutory requirement in MCL 500.3101(1) that owners maintain insurance on their own vehicles. Because Abdulla failed to maintain this coverage as required, he was precluded from receiving PIP benefits under MCL 500.3113(b). As such, I would vacate the trial court order denying Auto Club summary disposition, as well as the order granting Abdulla partial summary disposition as to penalty interest and fees, and remand for further proceedings.

/s/ Kathleen Jansen