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Supreme Court 'closes door' on eligibility for parked vehicle PIP benefits

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Sandra J. Densham
(616) 752-4627
sdensham@plunkettcooney.com

A recent Michigan Supreme Court ruling could benefit no fault insurers in claims involving persons who are injured when exiting a parked vehicle.

The Supreme Court held that personal protection insurance (PIP) benefits under Michigan's No Fault Act, MCL 500.3101, et seq, are not available to plaintiffs who injure themselves when they slip and fall as a result of closing a door of a vehicle.

In *Frazier v Allstate Insurance Company*, the Supreme Court noted that MCL 500.3105(1) provides that a claimant is entitled to PIP benefits for "accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle." However, when an injury occurs with respect to a parked motor vehicle, the court explained that coverage for benefits is not available unless one of the following occurs:

- [T]he injury was a direct result of physical contact with equipment permanently mounted on the vehicle, while the equipment was being operated or used. . . .
- [T]he injury was sustained by a person while occupying, entering into, or alighting from the vehicle. [MCL 500.3106(1)]

Therefore, when an injury occurs in the context of a parked motor vehicle, a claimant must establish that the injury meets one of the exceptions under MCL 500.3106(1), in order to demonstrate that the injury meets the criteria of MCL 500.3105(1) of having arisen out of the "use of a motor vehicle."

The plaintiff in *Frazier* was outside of her vehicle and in the process of closing the vehicle's door, with one hand on the door, when she slipped and fell. Although the Michigan Court of Appeals had held that the door constituted "equipment" within the meaning of MCL 500.3106(1)(b), the Supreme Court disagreed.

The Supreme Court held that because the statute requires that “equipment” must be “mounted on the vehicle,” the “constituent parts of ‘the vehicle’ itself are not ‘equipment.’” [emphasis in original.] Therefore, the court concluded that the plaintiff’s touching of the vehicle door constituted contact with the vehicle itself, rather than contact with “equipment permanently mounted on the vehicle.”

With respect to the exception to the parked vehicle exclusion under MCL 500.3106(1)(c), the Supreme Court held that “alighting” occurs as a result of a process which is generally completed when “both feet are planted firmly on the ground.” Because the plaintiff in this case was outside the vehicle with both feet on the ground, in control of her body’s movement, and not reliant upon the vehicle itself, the court held she was not in the process of “alighting from” her vehicle. Rather, she had “already alighted.”

Therefore, because the plaintiff was not in contact with “equipment” mounted on her vehicle, nor was she “alighting from” her vehicle, the Supreme Court concluded that her injury did not qualify as an exception to the parked vehicle exclusion under MCL 500.3106(1). Accordingly, the plaintiff’s injury did not arise out of the “use of a motor vehicle as a motor vehicle,” and she was not entitled to PIP benefits.

Prior to this decision, claimants had often been successful in establishing entitlement to PIP benefits upon a showing of physical contact with a parked vehicle just prior to the injury. In the future, physical contact with the vehicle will no longer be sufficient, by itself, to qualify as an exception to the parked vehicle exclusion under MCL 500.3106(1)(b).

In addition, a claimant outside of a vehicle with both feet on the ground and in “full control of one’s movement from reliance upon the vehicle to one’s body” will likely not be deemed to be “alighting from” a vehicle so as to qualify as an exception under MCL 500.3106(1)(b).

The plurality opinion did not discuss whether a claimant with both feet on the ground, but with part of his or her body inside a vehicle, would be deemed to be “entering” the vehicle, under 500.3106(1)(b).

If you have questions regarding the Michigan Supreme Court's ruling, you should consult with the author of this Rapid Report or any Plunkett Cooney motor vehicle negligence attorney.

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