

STATE OF MICHIGAN
COURT OF APPEALS

ASHLEY ELAINE HUMBLE,

Plaintiff-Appellant,

v

SARAH JO SKOCZYLAS, KELLEY ANN
GLEASON, and MICHAEL GLEASON,

Defendants-Appellees.

UNPUBLISHED

April 14, 2005

No. 251636

Eaton Circuit Court

LC No. 02-001609-NI

Before: Kelly, P.J., and Sawyer and Wilder, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's vehicle pulled into the intersection of Stony Brook Drive and St. Joseph Highway in order to turn eastbound onto St. Joseph Highway. Defendant Skoczylas' vehicle was traveling westbound on St. Joseph Highway. A van traveling in front of Skoczylas' vehicle turned northbound onto Stony Brook Drive. Skoczylas' vehicle continued into the intersection and collided with plaintiff's vehicle. Plaintiff received a traffic citation for failing to yield the right of way.

Plaintiff filed suit seeking noneconomic damages, and alleged that her injuries were proximately caused by Skoczylas' negligent operation of her vehicle.¹ Defendants moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that reasonable minds could not differ that plaintiff was greater than fifty percent at fault for the accident and thus ineligible for noneconomic loss damages. MCL 500.3135(2)(b). The trial court granted defendants' motion, finding that no evidence created a question of fact as to whether Skoczylas was driving in a negligent manner at the time of the accident.

¹ Plaintiff asserted that Kelley Ann Gleason and Michael Gleason, Skoczylas' mother and stepfather and the owners of the vehicle Skoczylas was driving at the time of the accident, were liable under the civil liability act, MCL 257.401.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

A person may be held liable for noneconomic damages caused by his use of a motor vehicle if the injured person has suffered death, a serious impairment of body function, or permanent serious disfigurement. MCL 500.3135(1). A party is not entitled to recover noneconomic damages if he or she was more than fifty percent at fault. MCL 500.3135(2)(b).

Plaintiff argues that the trial court erred by granting defendants' motion for summary disposition. We disagree and affirm. To establish causation, a plaintiff must prove that it is more likely than not that but for the defendant's breach of duty, the injury would not have occurred. *Skinner v Square D Co*, 445 Mich 153, 165-166; 516 NW2d 475 (1994). A party opposing a motion for summary disposition must present more than speculation and conjecture to meet the burden of proving the existence of a genuine issue of fact. A conjecture is an explanation that is consistent with the known facts but that is not deducible from the facts as a reasonable inference. *Libralter Plastics, Inc v Chubb Group*, 199 Mich App 482, 486; 502 NW2d 742 (1993). Plaintiff's assertions that Skoczylas was speeding at the time of the accident because she was in a hurry, that she was not paying attention to the road because she looked at her speedometer, and that she attempted to make an illegal pass of the van, were not supported by the direct evidence or reasonable inferences drawn therefrom. Skoczylas testified that she was traveling at the posted speed limit of fifty-five miles per hour. She did not indicate that she looked at her speedometer for a prolonged period of time, and testified that she applied her brakes prior to the accident. An eyewitness to the accident testified that he heard Skoczylas' brakes squeal prior to the accident. The deputy who responded to the scene of the accident indicated that he could not determine at what point Skoczylas' vehicle swerved. Plaintiff's assertion that a jury could find that Skoczylas was more than fifty percent at fault for the accident would require the jury to engage in impermissible speculation and conjecture. *Id.* Plaintiff did not produce admissible evidence that created a genuine issue of fact as to whether Skoczylas acted negligently and thus proximately caused the accident. *Skinner, supra*. The trial court properly granted summary disposition to defendants.

Affirmed.

/s/ Kirsten Frank Kelly

/s/ David H. Sawyer

/s/ Kurtis T. Wilder