

STATE OF MICHIGAN
COURT OF APPEALS

SOMAR MARIE GOUDY,

Plaintiff-Appellant,

v

BLISS ARDEN YEITER,

Defendant-Appellee.

UNPUBLISHED

July 26, 2012

No. 306112

Kent Circuit Court

LC No. 10-000645-NI

Before: SHAPIRO, P.J., and HOEKSTRA and WHITBECK, JJ.

PER CURIAM.

Plaintiff appeals by right from a jury verdict finding that her chronic knee injury was not caused by her motor vehicle accident with defendant. We affirm because the jury's finding that plaintiff's injury was not caused by the accident was supported by sufficient evidence.

On January 22, 2007, plaintiff's car was struck by a minivan driven by defendant. At the time of the crash, plaintiff did not complain of pain in her knees. Two weeks later, however, she returned to her doctor and reported suffering pain in both knees. Plaintiff's orthopedic surgeon eventually diagnosed her with chondromalacia patella, a chronic condition involving the deterioration of cartilage in the knees. At trial, plaintiff's surgeon testified that the car accident at least contributed to plaintiff's condition. A defense expert testified that it was highly unlikely that the trauma of the accident had anything to do with plaintiff's condition, but agreed that plaintiff did suffer from chondromalacia patella.

At the close of trial, the jury was given a verdict form that first asked, "Was the plaintiff injured?" If the jury answered yes, the form then asked, "Was Defendant, [sic] Bliss Arden Yeiter's negligence a proximate cause of the plaintiff's injuries?" Neither party objected to the verdict form. The jury answered that plaintiff was not injured, and therefore did not proceed to answer the second question. Plaintiff moved for a new trial, but the trial court denied this motion. Plaintiff now appeals, arguing that the jury's decision was against the great weight of the evidence.

"When a party claims that a jury verdict is against the great weight of the evidence, this Court may overturn the verdict only when it is manifestly against the clear weight of the evidence. The jury's verdict should not be set aside if there is competent evidence to support it." *Wiley v Henry Ford Cottage Hosp*, 257 Mich App 488, 498; 668 NW2d 402 (2003) (internal citation omitted).

Plaintiff argues that the first question, which asked whether she was injured, was meant to ask whether she had any injury from any cause at anytime. She then asserts that because all the experts agreed that she suffered from chondromalacia patella, no reasonable juror could answer “no” to the question. Plaintiff is, however, mistaken regarding the meaning of the question. A review of the trial transcript, including the closing arguments of counsel, leaves no doubt that the question posed to the jury was whether plaintiff was injured *in the auto accident* and that the jury concluded that she was not. If, as plaintiff now suggests, the question merely asked whether plaintiff had any knee injury from any cause in her entire life, then plaintiff should have moved for a directed verdict on that issue since, as she now argues, there was no dispute on that issue. Plaintiff did not move for a directed verdict and did not object to or seek clarification of the verdict form. There was a great deal of conflicting evidence regarding whether plaintiff’s knee injury arose out of the auto accident or came from a different, non-traumatic, cause. Thus, the jury had sufficient evidence upon which to find that the plaintiff was not injured in the crash, and we will not disturb its verdict.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Joel P. Hoekstra
/s/ William C. Whitbeck