

## Please My Lady, Overturn That Award! One Of BC's Largest Personal Injury Jury Awards Discussed



Late last year a Vancouver Jury handed out one of the biggest Personal Injury awards in British Columbia's history. In that case ([Ciolli v. Galley](#)) the Plaintiff was injured in three separate motor vehicle accidents. The trial for all of her claims were heard together and a Jury initially awarded some \$12 million in compensation.

The award included \$6.5 million for non-pecuniary damages (money for pain and suffering and loss of enjoyment of life). Such an award is not allowed in Canada as a result of a series of cases known as "the trilogy". In the trilogy the Supreme Court of Canada found that the maximum a victim can be awarded for non-pecuniary damages in a negligence claim is \$100,000. Adjusted for inflation this cap is now close to \$327,000. After being advised of this fact the Jury reduced their award of non-pecuniary damages to this maximum amount bringing the total judgement to some \$6.2 million.

The Defendants, undoubtedly surprised by the award, asked the trial judge to disregard the Jury's award arguing that the damages awarded were "exceptional" and mandated "judicial intervention". The Defendants asked that a mistrial be ordered .

Madam Justice Loo dismissed the mistrial application finding she had no jurisdiction to overturn the award. In reaching this conclusion Madam Justice Loo made the following observations:

*Only in limited circumstances may a trial judge refuse to accept a jury's verdict; when he or she concludes "that there is no evidence to support the findings of the jury; or where the jury gives an answer to a question which cannot, in law, provide a foundation for judgment"...*

*In my respectful view, the defendants are really complaining that the jury's award is inordinately high or wholly out of proportion to the evidence and cannot be reasonably supported by the evidence. That may be, but unless there is no evidence to support the jury's findings, a trial judge may not reject a jury's verdict. I cannot conclude that there was no evidence before the jury relating to Ms. Ciolli's claim for pecuniary loss, and accordingly, the application is dismissed.*

This case is heading off to the BC Court of Appeal and I'll be sure to report the BC High Court's comments on this case once they have an opportunity to release their reasons for judgement.