

## More On ICBC Injury Claims And The LVI Defence

March 17th, 2009

I've blogged and written many times about [ICBC's Low Velocity Impact Program \(LVI\)](#) and today Mr. Justice Williams shared his opinions about the so called LVI defence.

In today's case ([Munro v. Thompson](#)) the Plaintiff suffered a whiplash injury in a 2006 motor vehicle collision. The Court found that the impact was indeed quite minimal when considering the vehicle damage. In awarding \$9,000 for the Plaintiff's injuries (which the court found largely resolved several months following the collision) Mr. Justice Williams summarized the law as it related to Low Impact Collisions as follows:

[50] *The issue of the legitimacy of injury claims arising from accidents in which property damage is very minor is one that comes before the court not infrequently.*

[51] *The accident at bar was a low velocity collision where damage to the vehicles was so minimal as to be almost non-existent. All of the evidence supports that conclusion. In such instances, claims for compensation for injury are often resisted on the basis that there is reason to doubt their legitimacy. Furthermore, in this case the principal evidence in support of the plaintiff's claim is subjective, that is, it is his self-report. There is not a great deal of objective evidence to support his description of the injuries he claims to have suffered.*

[52] *In response to those concerns, I would observe that there is no principle of law which says that because the damage to the vehicles is slight or non-detectable, that it must follow that there is no injury. Certainly, as a matter of common sense, where the collision is of slight force, it is probably more likely that resulting injuries will be less severe than where the forces were greater, such as to result in significant physical damage to the automobiles. However, I would not hold that out as a reliable thesis, but rather a statement of very general expectation. Suffice to say, I do not accept that there can be no injury where there is no physical damage to the vehicles.*

[53] *With respect to the lack of objective evidence of physical injury and ongoing symptoms, it is well accepted that the court must be cautious in assessing the evidence. The determination must be made in a way that the outcome will be fair to both the plaintiff and the defendant.*

[54] *The plaintiff, to succeed in his claim, must establish on a balance of probabilities that this incident caused injury to him, and that those injuries entitle him to an award of compensatory damages against the defendant.*

[55] *I am satisfied in this case that Mr. Munro was injured as a consequence of the accident, notwithstanding its apparently minor nature. Accordingly, it is necessary to determine the extent of the effect of those injuries on him and the quantum of the damages to which he is entitled.*

If you are injured by the fault of another in a BC Car Crash and ICBC tells you that your crash fits their LVI criteria therefore you suffered no compensable injuries its worth reviewing cases like this. ICBC's LVI policy is not the law, it is simply a corporate policy that has no legal force. If you were injured in a car crash through the fault of another in BC your rights to make a tort claim are not diminished any because of the amount of vehicle damage.