

\$1,284,279 Awarded For Traumatic ‘Complex Somatoform Disorder’

November 3rd, 2008

Reasons for judgement were released today awarding a Plaintiff nearly \$1.3 million in damages as a result of a 2002 motor vehicle collision which occurred at UBC.

The Plaintiff was a pedestrian at the time. She was struck while walking in a marked crosswalk on a dark and rainy evening. Both fault and quantum (value of the ICBC claim) were at issue at trial.

The court found that the defendant driver was 100% responsible for the collision. At paragraph 8 Madam Justice BJ Brown noted that

[8] In my view, (the Defendant) is 100% responsible for the accident. She was driving in, not through, the crosswalk, in the course of completing a U-turn, looking for a parking space. She was aware that at that time of night it is quite common for there to be pedestrians about, that there are still students attending classes. Indeed, she was picking her husband up from teaching a class.

The Plaintiff was a PhD student looking to earn her degree in chemistry at the time. The court found that she suffered some significant injuries which are summarized at paragraph 69 of the judgement:

[69] (the Plaintiff's) condition, a complex somatoform disorder (a combination of a pain disorder, somatoform disorder NOS (organically unexplained fatigue) and conversion disorder (psychogenic neurological deficits)), was caused by the motor vehicle accident. It developed over the days and weeks following the accident, as (the Plaintiff) complained of bizarre, non-organic complaints, such as, on March 19, 2002, speaking in a barely audible whisper and being hypersensitive to exam; on April 17, feeling exquisitely tender; and by May 30 when she saw Dr. Spacey, demonstrating many non-physiological findings, such as a vibration which respects the midline (a test performed by Dr. Spacey which should have been felt all across the forehead, but which Dr. Samuel felt only to mid-way across the forehead) and total body weakness for three weeks which Dr. Spacey thought to be "highly functional in nature". Her complaints exceeded the physical signs.

The court assessed damages as follows:

(i)	Non-pecuniary damages	\$ 100,000.00
(ii)	Loss of income/capacity:	
	Future:	\$1,000,000.00
	Past:	\$ 150,000.00
(iii)	Cost of future care	\$ 25,000.00
(iv)	Loss of housekeeping capacity	\$ 15,000.00
(v)	Special damages	\$ 4,279.53

In noting that \$1,000,000 was appropriate in loss of earning capacity, the court noted that ‘chronic conversion disorder, such as demonstrated by (the Plaintiff), usually evolved into a chronic illness. Despite treatment, the majority of these patients fail to return to work. Accordingly, it is unlikely that (the Plaintiff) will earn any significant amount of the course of her lifetime.’

This case is worth reviewing for anyone advancing a contested psychological injury claim with ICBC as it gives insight into the complexity involved in prosecuting such cases.