

## \$30,000 Non-Pecuniary Damages Awarded In Minimal Damage Collision

December 8th, 2008

[Reasons for judgement were released today](#) by the BC Supreme Court awarding a Plaintiff just over \$40,000 in total damages as a result of a 2003 motor vehicle collision.

The Plaintiff was stopped at a stop sign in Surrey, BC when her vehicle was rear-ended by the Defendant. The issue of fault was not disputed. What was disputed was whether the Plaintiff was injured in this crash and if so what the amount of her damages ought to be.

This case seems to be one that fit ICBC's Low Velocity Impact (LVI) criteria. The vehicles involved had very little damage. Evidence was called from an insurance estimator who testified that there was nothing more than cosmetic damage to the vehicle and the repair estimate was slightly more than \$500. It is a frequent strategy of ICBC defence lawyers to focus on the amount of vehicle damage in LVI cases and this strategy appears to have been employed in this trial.

Despite the LVI-nature of this crash the Plaintiff satisfied the court she sustained injuries. The Court was impressed with the Plaintiff and made the following finding:

[43] *I find that Ms. Orrell is an honest witness and accept her evidence of the event and the injuries that she sustained. I am satisfied that she was injured in the collision, and that, as a consequence, she experienced pain and discomfort and disruption to her usual activities. Those have not fully resolved at the time of trial.*

Mr. Justice Williams summarized the injuries as follows in concluding that \$30,000 was fair for the Plaintiff's pain and suffering (non-pecuniary damages)

[51] *The accident and the resultant injuries caused a reasonably significant measure of pain, suffering and loss of enjoyment of life for Ms. Orrell following the event. Considering both her evidence and the first report of Dr. Miki, that effect was most pronounced for a period of approximately six months, but continued, albeit in a less debilitating way, up to the point of trial. It has impacted on her participation in many endeavours, including being physically active in such pastimes as running, going to the gym, gardening, ordinary household tasks and, importantly, being as active with her son as she otherwise would have been. As I have indicated earlier, there are however other factors that must be taken into account, including her pre-accident status and her pregnancy in 2006. Both of those contributed to her discomfort too.*

Cases like this one show time and time again that the extent of vehicle damage does not determine what a person's tortious injuries are worth in British Columbia, rather medical evidence is key in valuing ICBC injury tort claims.