



Civil Resolution Tribunal

Date Issued: September 13, 2023

File: VI-2022-003759

Type: Accident Claims

Category: Minor Injury Determination

Civil Resolution Tribunal

Indexed as: *Dhillon v. Hawkins*, 2023 BCCRT 774

BETWEEN:

SUNDEEP DHILLON

APPLICANT

AND:

BRENT HAWKINS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a minor injury determination.
2. The applicant, Sundeep Dhillon, and the respondent, Brent Hawkins, were involved in a motor vehicle accident on August 27, 2020, in Maple Ridge, British Columbia.

Mr. Dhillon was undisputedly injured as a result of the accident and he argues his injuries are not “minor injuries” as defined under the *Insurance (Vehicle) Act* (IVA). Mr. Hawkins disagrees. There is no accompanying dispute about liability or damages for the accident at the Civil Resolution Tribunal (CRT).

3. Mr. Dhillon is represented by Arpan Gill, legal counsel. Mr. Hawkins is represented by an authorized employee of his insurer, Insurance Corporation of British Columbia (ICBC). ICBC is not a party to this proceeding.

JURISDICTION AND PROCEDURE

4. These are the CRT’s formal written reasons. The CRT has jurisdiction over motor vehicle injury disputes, or “accident claims”, brought under section 133 of the *Civil Resolution Tribunal Act* (CRTA). Section 133(1)(b) of the CRTA gives the CRT exclusive jurisdiction over the determination of whether an injury is a “minor injury” under the IVA. Section 2 of the CRTA states that the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
5. Section 39 of the CRTA says that the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
6. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

ISSUE

7. The issue in this dispute is whether Mr. Dhillon’s injuries are “minor injuries” as defined by section 101 of the IVA.

BACKGROUND, EVIDENCE AND ANALYSIS

8. In a civil claim such as this, the applicant Mr. Dhillon must prove his claim on a balance of probabilities, meaning “more likely than not”. While I have read all of the parties’ evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision. I note Ms. Gill, on Mr. Dhillon’s behalf, chose not to submit any final reply submissions, despite being given the opportunity to do so.
9. As noted, Mr. Dhillon was injured in a motor vehicle accident on August 27, 2020. The accident happened as Mr. Dhillon turned left from eastbound Lougheed Highway onto 227 Street, while Mr. Hawkins was traveling straight through the intersection eastbound on Lougheed Highway. ICBC held Mr. Dhillon 100% responsible for the accident.
10. As a result of the accident, Mr. Dhillon says he suffered various injuries, including a concussion, headaches, nausea, soft tissue injuries to his arm, ankle, neck, shoulders, elbow, back and leg (the “physical injuries”) as well as psychological injuries including mood swings, sadness, post traumatic stress, lack of focus, intrusive thoughts, depressive episodes, lack of trust in others, and insomnia (the “psychological injuries”). Mr. Dhillon argues he has not been able to return to full-time work since the accident. He says his injuries have not resolved in 12 months and so have resulted in a serious impairment and should not be considered “minor injuries”.
11. Mr. Hawkins disagrees. He says Mr. Dhillon’s injuries do not meet the prescribed criteria for a serious impairment. Mr. Hawkins also argues Mr. Dhillon was not working full time before the August 27, 2020 accident, and that he was involved in 2 other serious incidents after the subject accident, including a November 2, 2020 work incident and a severe head-on collision December 18, 2020, both of which impacted his ability to work. Notably, Ms. Gill, as Mr. Dhillon’s legal counsel, elected not to respond to Mr. Hawkins’ submissions about these further incidents and their impact on Mr. Dhillon’s injuries.

12. Section 101 of the IVA and section 2 of the *Minor Injury Regulation* define a “minor injury” as including, among other things, sprains or strains, pain syndromes, a concussion that does not result in an incapacity, and whiplash-associated disorder (WAD) injuries.
13. Section 101 further says that a “minor injury” includes a physical or mental injury that does not result in a “serious impairment”. A “serious impairment” means a physical or mental impairment that is not resolved within 12 months after the date of the accident **and** “meets prescribed criteria”.
14. *Minor Injury Regulation* section 3 sets out the “prescribed criteria” for a serious impairment. It says that the impairment must result in a “substantial inability” to perform the essential tasks of Mr. Dhillon’s regular employment or education program, or his activities of daily living. The impairment must be caused by the accident, be ongoing since the accident, and not expected to improve substantially.
15. Section 4 of the *Minor Injury Regulation* says the burden of proving an injury is not minor is on the party alleging the injury is not minor. Here, that is Mr. Dhillon. For the following reasons, I find Mr. Dhillon has not proven his injuries are not minor.
16. In support of his claim that his injuries are not minor, Ms. Gill submitted incomplete records from Mr. Dhillon’s family doctor, Dr. Gurdeep Parhar, and his counsellor, Aditi Jasra, as well as records from Mr. Dhillon’s physiotherapist and kinesiologist. ICBC also submitted hospital records and income tax returns, among other things.
17. First, Dr. Parhar’s records are incomplete as they are missing pages, and only cover the time period between the accident date and February 8, 2021, less than 6 months after the subject accident. However, both Dr. Parhar’s records and the hospital records confirm Mr. Dhillon was involved in a workplace accident on November 2, 2020, affecting Mr. Dhillon’s hand and back, and a “severe” head-on collision on December 18, 2020, which resulted in multiple soft tissue injuries and psychological complaints. There is only 1 clinical record from Dr. Parhar after those 2 subsequent incidents. As noted above, neither Mr. Dhillon nor Ms. Gill as his legal counsel

provided any final reply submissions. In his submissions Mr. Hawkins raised the issue of the November 2020 workplace incident and the December 2020 accident significantly impacting Mr. Dhillon's injuries and his ability to work. I also note Mr. Hawkins raised the second accident issue in his Dispute Response, so Mr. Dhillon had multiple opportunities to address it at both the evidence stage and during initial and final reply submissions. I find it significant that Mr. Dhillon failed to respond to those allegations, and failed to provide any further records from his family doctor indicating the progression of his injuries after both subsequent accidents.

18. Similarly, the physiotherapy records in evidence only cover the period from February 23, 2022 to November 3, 2022, and the massage therapy records cover from January 14, 2022 to September 1, 2022. Although Mr. Dhillon says he attended treatment immediately after the August 27, 2020 accident, he failed to provide any evidence of it. I am unable to determine from the treatment records in evidence whether Mr. Dhillon's complaints as noted in the submitted records were related to the August 2020 accident, the November 2020 work incident, or the December 2020 accident. Though in any event I note Mr. Dhillon's physiotherapist recorded that by May 2022 Mr. Dhillon's complaints were likely related to soreness from the gym and not his accident injuries.
19. Based on the records in evidence, Mr. Dhillon was diagnosed with grade 2 whiplash associated disorder-type (WAD II) to his neck and back. These injuries therefore fall within the injuries listed as "minor injuries" in the IVA and *Minor Injury Regulation*. I find Mr. Dhillon has not proven any of the physical injuries are not minor.
20. I turn to Mr. Dhillon's psychological injuries. In support of his claim Mr. Dhillon provided records from his counsellor, Aditi Jasra. The records indicate Mr. Dhillon attended 19 counselling sessions. However, the records group the sessions together with brief summaries of 5 undated sessions at a time. I note the counselling records, similar to Dr. Parhar's records, are missing pages. Given they are undated and do not specifically reference either the August 2020 accident or the December 2020 accident, I find the counselling records are of no assistance in evaluating Mr. Dhillon's

psychological injuries as a result of the August 2020 accident. I find Mr. Dhillon has not proven any psychological injuries he suffered were caused by the August 2020 accident, or that they are otherwise not minor injuries.

21. While I appreciate Mr. Dhillon says he is still suffering from ongoing symptoms, I find he has not proven they were caused by the August 2020 accident as required by section 3 of the *Minor Injury Regulation*. I also find Mr. Dhillon has not proven his alleged injuries are not “minor injuries” as defined by the IVA. Further, Mr. Dhillon did not provide any evidence, such as employment or business records, that support his allegation that he is unable to work as a result of his accident injuries. Similarly, I find the medical records in evidence do not support Mr. Dhillon’s claim that he is unable to substantially perform the essential tasks of his employment or his activities of daily living.
22. Again, I find it significant that Ms. Gill elected not to provide final reply submissions or complete records in support of Mr. Dhillon’s claims. I find Mr. Dhillon has not met his burden under section 4 of the *Minor Injury Regulation*. I find both the physical and psychological injuries are “minor injuries” as defined by section 101 of the IVA and the *Minor Injury Regulation*.

FEES, EXPENSES AND INTEREST

23. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. As Mr. Dhillon was not successful, I dismiss his claim for reimbursement of tribunal fees. For the same reason, I find Mr. Dhillon must reimburse Mr. Hawkins \$25 for paid tribunal fees as Mr. Hawkins was successful. Neither party claimed dispute-related expenses.

ORDERS

24. The injuries Mr. Dhillon suffered in the August 27, 2020 accident are “minor injuries” as defined by section 101 of the IVA.

25. Within 21 days of the date of this decision, I order Mr. Dhillon to pay Mr. Hawkins a total of \$25 as reimbursement for tribunal fees.
26. Mr. Hawkins is also entitled to post-judgment interest under the *Court Order Interest Act*.
27. Under section 57 and 58 of the CRTA, a validated copy of the CRT's order can be enforced through the Supreme Court of British Columbia or the Provincial Court of British Columbia if it is under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Andrea Ritchie, Vice Chair