



# Civil Resolution Tribunal

Date Issued: May 13, 2024

Files: VI-2022-007540  
and VI-2023-002905

Type: Accident Claims

Category: Minor Injury Determination

Civil Resolution Tribunal

Indexed as: *Deol v. Woods*, 2024 BCCRT 450

B E T W E E N :

PARAMJIT KAUR DEOL

**APPLICANT**

A N D :

KAILEY NILSSON and KENNETH NILSSON

**RESPONDENTS**

A N D B E T W E E N :

PARAMJIT KAUR DEOL

**APPLICANT**

A N D :

DAVID WOODS

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Micah Carmody

### INTRODUCTION

1. These disputes are about two motor vehicle accidents involving the same applicant, Paramjit Kaur Deol. On April 28, 2020, Ms. Deol was rear-ended by the respondent David Woods (dispute VI-2023-002905). On October 13, 2020, Ms. Deol was rear-ended by the respondent Kailey Nilsson (dispute VI-2022-007540). I infer the respondent Kenneth Nilsson owned the vehicle Kailey Nilsson was driving.
2. Ms. Deol was undisputedly injured in both accidents, and asks me to determine whether her injuries from the accidents are “minor injuries” under the *Insurance (Vehicle) Act* (IVA). She says they are not. Ms. Deol is represented by a lawyer, Roseanna Gentry.
3. The Insurance Corporation of British Columbia (ICBC) insures all parties. ICBC is not a party to these disputes, but an ICBC employee represents all the respondents. The respondents in both disputes say Ms. Deol’s injuries are “minor injuries”.
4. As I explain below, I find Ms. Deol’s injuries are “minor injuries” under the IVA.

### JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). 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.

6. Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness.
7. Section 39 of the CRTA says 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.
8. 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**

9. The issue in this dispute is whether the applicant's injuries are "minor injuries" as defined by section 101 of the IVA.

## **BACKGROUND**

10. Under section 4 of the *Minor Injury Regulation* (MIR), the party alleging that an injury is not minor has the burden of proving it. This means that Ms. Deol must prove her injuries are not minor on a balance of probabilities, meaning "more likely than not". While I have read all the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. Ms. Deol was 52 years old when the accidents happened. She worked and continues to work as a care aid. As mentioned above, Ms. Deol was involved in two motor vehicle accidents in 2020. In each of them she was driving an SUV and was the leading vehicle in a rear-end collision. The first accident happened on April 28, 2020. Ms. Deol did not go to the hospital but did see her doctor that day. The second

accident happened on October 13, 2020. Ms. Deol was taken by ambulance to the hospital and was discharged that day.

12. Ms. Deol says that as a result of the first accident, she suffered injuries to her back, neck, shoulders, right arm and hand, as well dizziness, headaches, sleeplessness, depression, stress, anxiety, and shock. She says the second accident aggravated these injuries. However, in her submissions Ms. Deol only argues that her physical injuries were not minor injuries. I find that if she considered her other injuries to be not minor, she would have said so, particularly given she was represented by counsel. I find this is sufficient to conclude that Ms. Deol's sleeplessness, depression, stress, anxiety and shock are minor injuries under the IVA.
13. Section 101 of the IVA and the MIR together provide a detailed definition of a minor injury. The relevant parts of IVA section 101 describes a minor injury as a physical injury, including a chronic injury, that does not result in a "serious impairment" and is one of a list of prescribed injuries. Relevant to this dispute, the list of prescribed injuries under IVA section 101 and MIR section 2 are sprains, strains, pain syndromes, a concussion that does not result in an incapacity, and whiplash-associated disorder (WAD) injuries.
14. The relevant parts of IVA section 101 and MIR section 3 say that a "serious impairment" is a physical impairment that is not resolved within 12 months and results in a substantial inability to perform a) the essential tasks of the injured person's regular employment despite reasonable efforts to accommodate the impairment, or b) their activities of daily living. The injury must also be primarily caused by the accident, ongoing since the accident, and not expected to improve substantially.
15. Section 5 of the MIR says that if a person suffers more than one injury, each injury must be diagnosed separately as to whether it is minor or not.

## EVIDENCE AND ANALYSIS

16. The parties provided clinical records from family physicians Dr. Parmjit S. Sohal and Dr. P. S. Aulakh, as well as physiotherapists, a massage therapist, and a kinesiologist.
17. On April 28, 2020, the day of the first accident, Dr. Sohal diagnosed Ms. Deol with cervical and right shoulder strain. She was given a note to be off work until May 1, 2020. She did not attend physiotherapy before the second accident happened.
18. On October 13, 2020, the day of the second accident, Dr. Sohal assessed Ms. Deol with cervical, shoulders, and lumbar strain. Although the evidence is not entirely clear, I am satisfied that Ms. Deol missed a week of work. Ms. Deol began physiotherapy on October 26, 2020. The physiotherapist indicated she had a grade 2 WAD and grade 2 shoulder sprain.
19. Ms. Deol continued with physiotherapy between 3 and 10 times per month for the next 7 months, and then generally saw a physiotherapist or kinesiologist weekly until the end of 2023, the last date records are available. Based on the records and Ms. Deol's submissions, I accept that her injuries have not resolved, more than 3 years after the second accident. However, to show that her injuries are not "minor injuries", Ms. Deol must also prove that she is substantially unable to perform her regular work duties or her daily living activities.
20. Ms. Deol continues to work full time as a care aide, which I accept is physically demanding work. She says she attempts to do her job to the best of her abilities with modifications and asks others for assistance when she can. However, she does not explain what these modifications are. There is no evidence that she has had to ask her employer for accommodations, and no evidence that she or her employer have any concerns that she is unable to perform her duties.
21. I acknowledge that Ms. Deol says she was forced to keep working because she was the only income earner for her family. I accept that Ms. Deol has pushed through pain to continue working. However, the legislation requires her to be substantially unable

to complete her employment duties. The evidence before me indicates that she consistently performs her employment duties, albeit with pain and some unspecified modifications. I find Ms. Deol has not proven a serious impairment as it relates to her employment.

22. As for daily living activities, the definition of “activities of daily living” applicable to Ms. Deol’s accident was found in MIR section 1. It said activities of daily living means the following activities:

- a. Preparing own meals,
- b. Managing personal finances,
- c. Shopping for personal needs,
- d. Using public or personal transportation,
- e. Performing housework to maintain a place of residence in acceptable sanitary condition,
- f. Performing personal hygiene and self-care, and
- g. Managing personal medication.

23. Ms. Deol says she struggles with household chores, meal preparation, and personal grooming. She does not provide much detail and instead relies on the physiotherapy clinical notes. The physiotherapy records indicate that Ms. Deol experiences pain during or after some of her activities of daily living. She experiences pain after doing heavy yard work, for example. The records also show that in June 2023 Ms. Deol felt that her symptoms were “much improved” since the accident. Her lifting capacity improved, her pain level decreased, she was able to sit and stand up to 2 hours, and overhead activities with light weight were less painful. I accept that she struggles with or experiences pain during some of her activities of daily living. However, the legislation requires her to show that she is substantially unable to perform her

activities of daily living. The evidence shows that she is generally able to perform her activities of daily living, albeit sometimes with pain.

24. For the above reasons, I find Ms. Deol has not established that the impairment from her injuries has resulted in a substantial inability to perform her regular employment duties or her activities of daily living. As a result, I find all Ms. Deol's accident injuries are "minor injuries" as defined by the IVA and the MIR.

## **FEES AND EXPENSES**

25. 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 Ms. Deol was unsuccessful, I find that she is not entitled to reimbursement of their CRT fees. I also dismiss Ms. Deol's claim for \$440 for 3 invoices for clinical records.
26. Each respondent paid a \$25 CRT response fee. As the respondents were successful, I order Ms. Deol to reimburse them \$75.

## **ORDERS**

27. The injuries Ms. Deol suffered in the April 28, 2020 and October 13, 2020 accidents are "minor injuries" as defined by section 101 of the IVA.
28. Within 21 days, I order Ms. Deol to reimburse the respondents \$75 for CRT fees as follows:
- a. \$25 to David Woods,
  - b. \$25 to Kailey Nilsson, and
  - c. \$25 to Kenneth Nilsson.
29. The respondents are entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.

30. This is a validated decision and order. 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.

---

Micah Carmody, Tribunal Member