Ontario Accident Benefit Case Summaries

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THE COURT OF APPEAL OF ONTARIO AFFIRMS THE EXCLUSIVE JURISDICTION OF THE LICENSE APPEAL TRIBUNAL OVER STATUTORY ACCIDENT BENEFITS DISPUTES

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The Court of Appeal in *Yang v. Co-operators General Insurance Co.*,[1] confirmed the exclusive jurisdiction of the License Appeal Tribunal (LAT) over disputes concerning Statutory Accident Benefits (SABs).

The decision underlying the appeal concerned a motor vehicle accident, where the plaintiff claimed damages in the amount of $150 million.[2] Specifically, the plaintiff's claim concerned how the automobile accident insurer, Co-operators General Insurance Company, administered her claims for SABs. The plaintiff sued several Co-operators employees, multiple SABs service providers, various doctors and others. The defendants brought a motion to strike the plaintiff's statement of claim.

Justice Perell heard the defendants' motion and dismissed the plaintiff's action for a number of reasons, including that the pleading was scandalous, the Court did not have subject matter jurisdiction over her claim and the plaintiff had not plead a legally tenable cause of action against any of the defendants.

The plaintiff appealed, arguing that the motion judge erred in holding that the Superior Court lacked jurisdiction over the subject matter of her claim and in striking her pleadings under both Rule 21.01(1)(b) and Rule 25.11.

The Court of Appeal found that the motion judge made no error in interpreting and applying s. 280 of the *Insurance Act,*[3] which grants the LAT exclusive jurisdiction over disputes in respect of SABs. The appeal panel affirmed that s. 280(3) also deprives the Superior Court of jurisdiction.

The crux of the appellant's complaints in her statement of claim relate to her insurer's handling of her claims under the *Statutory Accident Benefits Schedule*. She alleges that Co-operators and that the other respondents conspired to coerce the respondent health care practitioners into "staging" multiple insurer examinations and preparing false reports.

The Court of Appeal states that the appellant's statement of claim concerns the respondents' alleged efforts to circumvent the *Schedule* and that framing the action as

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[1] *Yang v. Co-operators General Insurance Co.*, [2022] O.J. No. 938, 2022 ONCA 178.

[2] *Yang v. Co-operators General Insurance Co.*, [2021] O.J. no. 1093, 2021 ONSC 1540.

[3] *Insurance Act*, R.S.O. 1990, c. I.8.

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one in bribery, conspiracy, breach of privacy, breach of contract, or breach of fiduciary duty did not alter the substance of her claim.[4]

The appellant argued that, because she has settled with her insurer and is pursuing an action against the insurer's employees and others, s. 280 was not a bar to her claim since the LAT is empowered only to adjudicate disputes between an insured and an insurer. The Court of Appeal rejected this argument, stating that the appellant's claim concerns the way in which she was assessed for SABs under the *Schedule*, which is squarely within the LAT's mandate. The appellant chose to settle with her insurer and the fact that she cannot now independently seek damages against each of the other parties does not oust the Tribunal's jurisdiction over the subject matter of the claim.[5]

Even if the action was not barred by s. 280 of the *Insurance Act*, the motion judge's refusal to grant leave to the appellant to amend her pleadings is a discretionary decision entitled to deference.[6]

The appeal was dismissed and the exclusive jurisdiction of the LAT to decide all disputes concerning SABs was strongly confirmed.

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APPEALS

Limitations/Bars to Claim — *Perrigard v. Primmum Ins. Co.*, 2022 OABC ¶A-1479, Ontario Licence Appeal Tribunal (April 12, 2022)

Limitations/Bars to Claim — *Bagla v. TD Ins. Meloche Monnex*, 2022 OABC ¶A-1480, Ontario Licence Appeal Tribunal (April 20, 2022)

CASE SUMMARIES

Applicant Not Entitled to Income Replacement Benefits Preceding Submission of Disability Certificate

Ontario Licence Appeal Tribunal, February 17, 2022

The applicant was involved in a motor vehicle accident in June 2019. The applicant submitted an OCF-3 disability certificate in November 2019. At the time of the accident, the applicant was employed by her husband. The respondent insurer requested additional information to confirm the validity of the employment information provided. Despite not receiving the requested information, the insurer initiated payment of income replacement benefits ("IRBs") in late May 2020, backdated to November 2019. The applicant applied to the Tribunal, seeking IRBs from June 2019 to November 2019, the period preceding the submission of her OCF-3. The applicant took the position that the insurer had failed to comply with its obligations under section 32(2) of the *Statutory Accident Benefits Schedule—Effective September 1, 2010* (the "Schedule"), which required the insurer to provide her with the appropriate application forms once it was aware that a claim might be made, and that it was now precluded from demanding a reasonable excuse for her delayed OCF-3 submission.

The application was dismissed. Under section 36(2) of the Schedule, the applicant was required to submit a completed OCF-3 with her application for IRBs. Under section 36(3), a claimant was disentitled to IRBs for any period before the submission of the completed OCF-3. The Tribunal found that the insurer failed to comply with section 32(2) in not providing the applicant with an OCF-3 form in response to her application for accident benefits. There was no evidence the insurer ever provided the form. The Schedule, however, provided no consequence for a failure to comply with section 32(2). Under section 34, a claimant's failure to comply with a time limit did not disentitle them to a benefit if they could

[4] *Yang v. Co-operators General Insurance Co.*, [2022] O.J. No. 938, 2022 ONCA 178 at para. 7.

[5] *Yang v. Co-operators General Insurance Co.*, [2022] O.J. No. 938, 2022 ONCA 178 at para. 10.

[6] *Yang v. Co-operators General Insurance Co.*, [2022] O.J. No. 938, 2022 ONCA 178 at para. 11.

give a reasonable explanation for the delay. The Tribunal found that section 34 did not apply when considering whether the applicant was entitled to any IRBs pre-November 2019. The Tribunal agreed with case law finding that section 34 was remedial in relation to a missed time limit, and pursuant to section 36(3), there was no time limit for it to be applied against. There was no reference or connection between section 36(3) and 32(2) of the Schedule, the Tribunal stated. While the Tribunal recognized the "injustice" to the applicant in falling "between" section 32(2) and 36(3), there was no remedy for this injustice under the Schedule.

The Tribunal further found that a lump sum award payment under section 10 of the *Automobile Insurance* regulation could not be awarded, as the applicant was not entitled to the benefits or interest that she claimed.

Kunaseelan v. Aviva Insurance Company of Canada, 2022 OABC ¶12625

Applicant Who Fell While Inspecting Roof of Truck Was Involved in "Accident"

Ontario Licence Appeal Tribunal, February 23, 2022

The applicant was involved in a motor vehicle incident in April 2019. The applicant had parked a transport truck belonging to his son's business in the parking lot of a local school with the intention to perform routine maintenance. The applicant leaned a ladder against the side of the truck to inspect its roof. While inspecting the roof, the applicant's leg became twisted and the ladder slid out from under him. The applicant grabbed onto the roof of the truck and was left hanging before he dropped approximately eight to ten feet, struck a curb below, and struck his head on the ground. The applicant sustained a traumatic brain injury. In November 2020, the insurer accepted that the applicant sustained a catastrophic impairment. Two years post-accident, the applicant sought approval for a housing modification that was partially approved by the insurer and nutritional counselling that was denied. The applicant applied to the Tribunal disputing the denials. The preliminary issue was whether the incident was an "accident" under section 3(1) of the *Statutory Accident Benefits Schedule—Effective September 1, 2010* (the "Schedule").

The applicant was involved in an "accident" under section 3(1) of the Schedule. The Tribunal found that the "purpose test" was met for a finding of an "accident". Tribunal case law had consistently found that parking of a vehicle as well as performing routine maintenance on a parked vehicle were an "ordinary and well-known activity" to which automobiles were put. The Tribunal accepted that the use of a ladder was required to inspect the roof of a vehicle as tall as a transport truck. This was an ordinary and well-known activity of a truck user and did not fall outside the ordinary course of things having regard to the vehicle's size. The Tribunal dismissed the insurer's argument that the applicant was an "inspector, worker, or mechanic" rather than a "motorist". Section 3(1) did not require the insured to be a motorist. The fact that the applicant was the former owner of the transport company and a current employee of his son did not upset the purpose test analysis.

The Tribunal also found that the "causation test" was met. But for the use and operation of the truck, the applicant would not have sustained his injury. There was a direct causal link between the use or operation of the truck and the applicant's impairments. The chain of events was "a clear line of dominoes" that was started with the applicant inspecting the roof of the truck, then hanging from the truck, and ended on his fall to the ground and striking of his head. The ladder was an essential component for inspecting the truck's roof and it could not be said that it was not part of the ordinary course of things. The inspection of the truck was ongoing when the ladder slipped away. While there was no one dominant cause to the accident, the use or operation of the truck was clearly a direct cause of the applicant's impairments. The Tribunal concluded that the test for an "accident" under section 3(1) of the Schedule was met.

Fehr v. Intact Ins. Co., 2022 OABC ¶12626

Applicant Not Involved in Accident Met Definition of Insured Person

Ontario Licence Appeal Tribunal, March 2, 2022

In March 2015, the applicant's father and two older brothers were involved in a motor vehicle accident. In May, 2015, the father was diagnosed with a closed head injury. The applicant was eight months old at the time and had not been in

the vehicle. In November 2019, the applicant was diagnosed with separation anxiety and in April 2020, the applicant was diagnosed with generalized anxiety disorder. The applicant applied to the father's insurer, the respondent, seeking statutory accident benefits in relation to the accident. The insurer denied the applicant's claims for a psychological assessment and for lost educational expenses. The applicant applied to the Tribunal, disputing the denial of benefits. The preliminary issue was whether the applicant was involved in an "accident" and was an "insured person" under section 3(1) of the *Statutory Accident Benefits Schedule—Effective September 1, 2010* (the "Schedule").

The application was allowed in part. The Tribunal found that the applicant was not involved in an accident but was an insured person. As there was no suggestion that the applicant witnessed the accident or was otherwise involved in it, the Tribunal found that the applicant was not involved in the accident, under section 3(1).

The Schedule's definition of "insured person" included a dependent who was not involved in an accident, but who suffered psychological or mental injuries as a result of an accident that resulted in a physical injury to their parent who was a named insured. The insurer did not dispute that the applicant was the daughter and dependent of its named insured who was involved in an accident. The evidence indicated that the father suffered a head injury as a result of the accident. The applicable test to determine whether the applicant's psychological impairments were caused by the accident was the "but for" test. The psychiatrist who diagnosed separation anxiety had found that it was a direct result of the accident. The Tribunal dismissed the insurer's position that the applicant's experience of physical and verbal assaults by her father and brother were an intervening event. A social worker had found that the father and brother had difficulties with their emotions since the accident and this resulted in physical and emotional abuse. The abuse contributed to the applicant's psychological injury. The abusive actions would not have arisen but for the accident. Accordingly, the applicant's psychological injuries would not have arisen but for the accident.

The Tribunal found that the applicant's proposed psychological assessment was reasonable and necessary and the insurer was required to fund it. The applicant's claimed lost educational expenses for tuition for the 2019 to 2020 school year were not reimbursable under the Schedule. Section 21(5) limited "lost educational expenses" to those incurred before the accident.

E.J. v. Economical Insurance, 2022 OABC ¶12631

Applicant Did Not Establish Entitlement to Retroactive Attendant Care Benefits

Ontario Licence Appeal Tribunal, April 19, 2022

The applicant was involved in a motor vehicle accident in May 2018. She submitted a Form 1 assessment of attendant care needs in October 2019. The applicant acknowledged that under section 42(5) of the *Statutory Accident Benefits Schedule—Effective September 1, 2010* (the "Schedule"), an insured could not seek attendant care benefits ("ACBs") incurred before the date of the submission of a Form 1. She submitted that her circumstances were exceptional and warranted accommodation. The applicant's position was that she did not recognize that the services she was receiving were attendant care She also claimed that she had no reason to submit the Form 1 sooner, as the respondent insurer had determined that her injuries fell within the Minor Injury Guideline ("MIG"), and ACBs were not available to those with a minor injury. The insurer removed the applicant from the MIG in September 2019.

The insurer partially approved the applicant's claim for ACBs, at $225 per month, from December 2019. The applicant applied to the Tribunal, seeking ACBs from the date of the accident and ongoing, at $220 per month.

The application was allowed in part. The Tribunal found the applicant failed to establish a reasonable explanation for why she should be permitted to claim expenses she incurred before submitting the Form 1. The applicant's reasons were not exceptional. They did not involve the level urgency, impossibility, or impracticability present in Tribunal cases where claims pre-dating the Form 1 were permitted. The insurer's conduct, in sending the applicant a letter in June 2018 stating that her injuries were minor and she was consequently ineligible for ACBs was not what prevented the applicant for applying for ACBs. It was not uncommon for an impairment to be initially assessed as minor and later found to fall outside the MIG. If the legislature intended for persons to become retroactively entitled to ACBs after being removed from the MIG, the Schedule would state this.

The applicant's records had insufficient detail to support a claim for ACBs from November 2019 to November 2020, and the Tribunal refused to deem those expenses "incurred" for that period under section 3(8) of the Schedule.

The applicant's records established that she received 33 hours of attendant care services between November 2020 and February 2021. The maximum allowable hourly rate was $14. The applicant received care from Ms. Kariuki, a friend and personal support worker. The Tribunal found that Ms. Kariuki qualified as a professional service provider who provided the applicant with services in the course of a profession in which she would ordinarily have been engaged but for the applicant. The Tribunal dismissed the insurer's argument that the claimed expenses were not reasonable and necessary, as the applicant was independent in her personal care tasks and was able to work as a personal support worker on modified duties. The Form 1 had recommended assistance in the form of emotional support. The insurer did not establish that the care provided by Ms. Kariuki, namely, cooking, grooming, general cleaning, post-surgery care, and showering, were not "emotional support". The insurer was liable for a total of $462 with respect to ACBs for November 2020 to February 2021.

Gichuki v. TD Insurance Meloche Monnex, 2022 OABC ¶12633

Applicant Did Not Establish Catastrophic Impairment Resulting from Brain Injury

Ontario Licence Appeal Tribunal, May 9, 2022

The applicant was involved in a motor vehicle accident in September 2016. As a result, she suffered a traumatic brain injury ("TBI"). The parties largely agreed that the TBI resulted in slowed cognition, headaches and reduced mobility, major depression disorder in partial remission, and mild neurocognitive disorder. The respondent insurer, however, denied the applicant's request to be classified as catastrophically ("CAT") impaired. The applicant applied to the Tribunal, seeking a determination that she was CAT impaired under section 3.1(1)4 of the *Statutory Accident Benefits Schedule—Effective September 1, 2010* (the "Schedule").

The application was dismissed. The Tribunal accepted the insurer's position that the structured interview ("GOSE questionnaire") found in the Glasgow Outcome Scale and the Extended Glasgow Outcome Scale Guidelines was not intended to go into "great detail" but was instead meant to give a "general index of the overall outcome" of the difficulties faced by a patient. In determining functional capabilities, the activity did not have to be carried out perfectly. The Tribunal found that the applicant's assessors took an overly specific view and answered the questions "contemplating every intricate detail concerning her." The insurer's more generalized approach was the correct one.

With regard to the GOSE questionnaire questions, the evidence indicated that the applicant was capable of performing tasks around her home, basic self-care tasks, and handle minor crises. The applicant did not exhibit the required level of someone who needed another person to be physically in her home to assist her. That the applicant benefitted from prompts, reminders, and text messages about tasks did not mean she was "dependent." The applicant was able to be left alone for eight hours and look after herself. While the applicant omitted some items from a grocery shopping list, she had the functional ability to navigate a store and pay for her items. The Tribunal also found that the applicant was able to travel locally without assistance. She used Wheel-Trans, was capable of arranging for transportation the night before, and was able to use taxis. The parties had agreed that the applicant was not able to resume regular and social activities outside the home but disagreed on the degree. The Tribunal found that if the participation in leisure and social activities was a value between 6 and 49 per cent of what it previously was, then the answer was that the insured participated "much less" than before. If it was 5 per cent or less, the answer was "rarely". The Tribunal found that the applicant participated in activities about 29 per cent of the pre-accident level, and accordingly, it was "much less", not "rarely".

Having regard to the preferred answered on the GOSE questionnaire, the Court found the applicant did not meet the test for a CAT impairment under section 3.1(1)4 ii of the Schedule.

Adams v. Federated Insurance Company of Canada, 2022 OABC ¶12639

Applicant Did Not Establish Catastrophic Impairment Based on Psychological Symptoms

Ontario Licence Appeal Tribunal, May 30, 2022

The applicant was involved in a motor vehicle accident in January 2016. She was struck by a Toronto Transit Commission bus while crossing at an intersection. The applicant had learning difficulties. At the time of the accident, she was enrolled in a college architectural technology program but was on academic probation for the first three semesters pre-accident, as she had not been attending classes and was socializing instead. She returned to her studies in September 2016 and graduated in 2019 with a B average. The applicant switched her field of studies to nutrition and enrolled at Ryerson University in 2020. The applicant had two summer jobs while studying, at Tim Horton's in 2017 and as a camp counsellor in 2018.

The applicant's assessors found that her purely physical impairments did not reach the 55 per cent "whole person impairment" ("WPI") threshold, but when her psychological impairments were factored in, she reached the threshold. The applicant's position was that she also met the threshold with respect to her purely psychological impairments and that she had "class 4" marked impairments in all four domains. The respondent insurer took the position that the applicant did not meet the CAT threshold. The applicant applied to the Tribunal, seeking a determination of CAT impairment and disputing the denial of a November 2018 treatment plan for a chronic pain assessment.

The application was allowed in part. The evidence indicated that the applicant commuted to her school post-accident and returned to working out. The Tribunal found that the switch from architecture to nutrition was occasioned by the applicant's concern over job prospects and her marks not being high enough to pursue a university architecture degree, and not her inability to withstand architecture's alleged physical demands. The applicant was given accommodations for assignments but there was no evidence she was failing any courses. She was involved in clubs at her school and she had resumed being social albeit at a lesser scale, with her "true friends".

The Tribunal found that the applicant's assessor's psychiatric report, finding her "marked" in all four domains, ignored the objective evidence of functionality in favour of the subjective presentation of the applicant at the assessment. The Tribunal found that, looking at what the applicant actually did in her life, she was able to carry out activities of daily living. The applicant was taking long commutes to school, balanced her course loads, socialized with friends, and focussed on her career and university options. The applicant's refocus from a very social lifestyle to her studies was a conscious choice and a reordering of priorities, not a symptom of her psychological deficit. The Tribunal also did not find the applicant's activities showed a significant impediment in concentration, persistence, and pace or in performance in a work or in a work-like setting. The Tribunal ultimately accepted the insurer's assessor's finding of a 10 per cent WPI for psychological impairment.

The Tribunal also preferred the insurer's evidence finding no neurological element to the applicant's current condition and no post-concussive syndrome. As a result, the Tribunal concluded that the applicant was not CAT impaired.

Given the applicant's reporting, it had been reasonable to conduct a CAT impairment assessment. The Tribunal found the OCF-18 was payable, with the exception of the transportation component, as there was no clear evidence on the form of transportation.

Islam v. Toronto Transit Commission, 2022 OABC ¶12640

Applicant Did Not Establish Catastrophic Impairment Based on Criterion 6 or 7

Ontario Licence Appeal Tribunal, May 26, 2022

The applicant was involved in a motor vehicle accident in October 2017. He claimed that as a result of his injuries, he continued to suffer from pain in his left shoulder and wrist, cervical and lumbar spine, and had headaches, poor sleep, anxiety, and depression. The applicant testified that he returned to work in February 2019 on modified hours and in March 2021, he was terminated from his position. The applicant submitted an OCF-19 application for determination of

catastrophic ("CAT") impairment, stating he qualified under criterion 6, as he had a physical impairment or combination of physical impairment that resulted in a 55 per cent or more impairment of the whole person ("WPI"). The OCF-19 also provided that the applicant qualified under criterion 7, as he had a mental or behavioural impairment excluding traumatic brain injury that, when combined with a physical impairment from criterion 6, resulted in a 55 per cent or more WPI. The respondent insurer took the position that the applicant did not meet the CAT impairment test under either criterion, as his WPI was 21 per cent for physical impairments and 5 per cent for mental/behavioural impairments. The applicant applied to the Tribunal, seeking CAT impairment determination and income replacement benefits ("IRBs") from March 2021 and ongoing.

The application was dismissed. The Tribunal preferred the evidence and report of the insurer's orthopaedic surgeon over that of the applicant's, with regard to ongoing issues with the left wrist and left shoulder, for a WPI of 21 per cent. The former's analysis was comprehensive and supported by medical records. The Tribunal found that the applicant's assessor's report contained inconsistencies. The Tribunal did not find the applicant's neurologist's rating of 38 per cent WPI for a neurological impairment persuasive. The neurologist did not explain or discuss the 2 per cent rating assigned for sexual disfunction. The report stated that the neurologist deferred the issue of disturbances of consciousness and awareness to a psychiatrist, yet still provided a rating of 15 per cent for them. The neurologist assigned 10 per cent to a cervical and lumbar radiculopathy that he identified as needing further evaluation. While he indicated that the applicant had severe driving anxiety, this was inconsistent with the evidence that the applicant resumed driving in 2018 and surveillance video evidence. The Tribunal preferred to use a WPI rating of 11 per cent. Accordingly, the applicant did not meet the requisite WPI rating under criterion 6.

Even if the rating of the applicant's psychiatrist of 20 per cent WPI for mental and behavioural disorders were accepted, it would not result in a 55 per cent for a combined impairment, under criterion 7. The Tribunal further found it did not accept the 20 per cent WPI rating. The applicant's psychiatrist's evidence was that the applicant could not work and could only travel locally, whereas the applicant had been working and had done international travel. The evidence also did not support that the applicant had driving anxiety.

The Court did not find that the applicant met the test for IRBs. The evidence indicated that the applicant performed work as a DJ post-accident and also volunteered at a radio station. This was sufficient to establish he did not meet a "complete inability to engage in employment" test.

Tanner v. Certas Direct, 2022 OABC ¶12642

Claimant Established She Met Catastrophic Impairment Status

Ontario Licence Appeal Tribunal, May 31, 2022

The applicant was involved in a motor vehicle accident in September 2015. She was prevented from returning to her employment as a personal support worker, and the respondent insurer paid income replacement benefits ("IRBs") based on its initial assessment. After an insurer's examination ("IE") report, it terminated IRBs as of January 2017. The applicant took the position that she met the definition of catastrophically ("CAT") impaired, as a result of somatic symptom disorder, predominant pain, major depression, and an adjustment disorder. She took the position that most or some assessors agreed on these diagnoses and that she met a "marked impairment" in the areas of concentration, persistence and pace, and adaptation. The insurer's position was that the applicant did not meet CAT impairment status, relying on its IE report by an occupational therapist and psychiatrist. The applicant claimed that when she attempted to return to work in 2018, her mind was preoccupied with concerns and she had difficulty concentrating when performing tasks like grocery shopping. She brought an application to the Tribunal, disputing the denial of IRBs, CAT impairment status, and certain OCF-18 treatment plans.

The application was allowed in part. The Tribunal preferred the evidence of the applicant' assessors over the insurer's reports. The applicant's psychiatrist's assessment was thorough, and it appeared that he had built a rapport with the applicant and she was more open with him during the assessment. His assessment diagnosed the applicant with a somatic disorder with predominant pain, persistent, and major depressive disorder, and he found her to be CAT impaired in the areas of concentration, persistence and pace, and adaptation. The Tribunal found this to be in line with the

applicant's treating practitioners' records and testimony and with the applicant's and her son's testimony. In the IE report, it was clear that the applicant experienced an exacerbation of her psychological symptoms and failed to adapt to the stress of the IE assessments. The IE psychiatrist provided no reasonable explanation of how the clinical reactions rendered the applicant only "moderately impaired".

The Tribunal found that the applicant had a substantial inability to perform the essential tasks of her employment and was entitled to a pre-104-week IRBs. The applicant was suffering from pain and psychological impairments. She was regularly seeing her family doctor and complaining about impairments from the accident. The applicant also met the post-104 week IRBs test. It was "abundantly clear" that the applicant could not work in any capacity, at any job, having regard to the fact that she was still receiving pain injections, had a referral to a new pain clinic, was diagnosed with major depressive disorder, and was suffering from physical and psychological symptoms that required pharmacological interventions.

The Tribunal found that the insurer's notices denying treatment plans did not provide the applicant with a proper indication of what it was agreeing to pay for and not, and the reasons why. The notices were deficient under section 38 (11)2 of the *Statutory Accident Benefits Schedule—Effective September 1, 2010* and as a result, the insurer was obligated to pay for the treatment plans described in the treatment plan beginning on the eleventh day until proper notice was given. For four treatment plans, the applicant failed to provide submissions on why they should be considered reasonable and necessary, and thus failed to establish entitlement to them. The Tribunal awarded a 30 per cent award under section 10 of the *Automobile Insurance* Regulation for the insurer's failure to pay IRBs and treatment plans.

G.P. v. Wawanesa Mutual Insurance Company, 2022 OABC ¶12643

Other Cases

Income Replacement Benefits — *McKay v. Travelers Insurance Company of Canada*, 2022 OABC ¶12622, Ontario Licence Appeal Tribunal (February 4, 2022)

Medical and Rehabilitation Benefits — *Barrett v. Aviva Gen. Ins.*, 2022 OABC ¶12623, Ontario Licence Appeal Tribunal (February 7, 2022)

Non-Earner Benefits — *Hess v. Gore Mutual Insurance Company*, 2022 OABC ¶12624, Ontario Licence Appeal Tribunal (February 7, 2022)

Forum — *Maycid v. TD General Insurance Company*, 2022 OABC ¶12627, Ontario Licence Appeal Tribunal (February 22, 2022)

Limitations/Bars to Claim — *Gefon v. Aviva General Insurance Company*, 2022 OABC ¶12628, Ontario Licence Appeal Tribunal (March 4, 2022)

Special Award — *Shweihat v. Aviva Insurance Company of Canada*, 2022 OABC ¶12629, Ontario Licence Appeal Tribunal (March 17, 2022)

Non-Earner Benefits — *Boyce v. Aviva General Insurance*, 2022 OABC ¶12630, Ontario Licence Appeal Tribunal (March 25, 2022)

Medical and Rehabilitation Benefits — *Yang v. Dominion of Canada General Insurance Company (Travelers)*, 2022 OABC ¶12632, Ontario Licence Appeal Tribunal (March 23, 2022)

Medical and Rehabilitation Benefits — *Mora v. Aviva Insurance Company of Canada*, 2022 OABC ¶12634, Ontario Licence Appeal Tribunal (April 4, 2022)

Repayment — *Pope v. TD General Insurance Company*, 2022 OABC ¶12635, Ontario Licence Appeal Tribunal (April 6, 2022)

Non-Earner Benefits — *Lee v. Aviva General Insurance*, 2022 OABC ¶12636, Ontario Licence Appeal Tribunal (April 19, 2022)

Repayment — *Aviva General Insurance Company v. Sayegh*, 2022 OABC ¶12637, Ontario Licence Appeal Tribunal (April 21, 2022)

Non-Earner Benefits — *Mahadevan v. Aviva Insurance Company*, 2022 OABC ¶12638, Ontario Licence Appeal Tribunal (April 27, 2022)

Limitations/Bars to Claim — *Robertson v. The Co-operators General Insurance Company*, 2022 OABC 12641, Ontario Licence Appeal Tribunal (May 26, 2022)

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