

ENDORSEMENT

Short Style of Cause: Basit v. Economical Mutual Ins. Co File No. CV-16-0574

Date	Counsel	
Dec. 20, 2017	Δ Moving Party: P. Smith	
	Π S. Qin	<p>The plaintiff's action is for accident benefits related to a motor vehicle accident on May 11, 2013: (a) for the income ^{replacement} benefit (IRB) of \$400 per week; (b) for a medical benefit of \$400; and for a declaration that the plaintiff's injuries/impairments do not fall within the Minor Injury Guideline (MIG).</p>
		<p>This motion by the Δ Economical is for summary judgment dismissing the plaintiff's claims, plus alternative claims should summary judgment not be granted. For the Reasons that follow summary judgment dismissing the plaintiff's claim is granted. The alternative claims for relief are therefore not applicable.</p>
		<p>Reasons:</p> <p>Based on the evidence filed there is no genuine issue requiring a trial in this action.</p> <p>(a) In order to qualify for IRB entitlement the plaintiff must establish one of the following criteria: (1) that she was employed at</p>

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Dec. 20, 2017	(as above)	<p>the time of the accident; 2) that she was receiving employment insurance ^(EI) benefits at the time of the accident; or, 3) that she was employed for at least 26 weeks during the 52 weeks before the accident.</p>
		<p>There is no evidence to show compliance with any of these 3 criteria. Despite proper and lawful requests by the defendant for information no evidence has been provided in that regard: neither to show she was either employed or receiving EI at the time of the accident, or that she was employed at least 26 of the 52 weeks prior to the accident. The defendant sought to examine the plaintiff on 2 occasions and at both appointments she failed to attend. In the absence of any evidence in support her IRB claim fails.</p>
		<p>b) and c) Regarding the claim for a \$400⁰⁰ medical benefit, and the ^{request for a} MIG declaration, the evidence is that the plaintiff has been paid \$3051.42 in medical benefits and there is no evidence provided from the plaintiff to suggest her entitlement exceeds the MIG limits to support a declaration to that effect. The</p>

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		<p>As there is no evidence to show the plaintiff suffered an impairment that is not predominantly a minor injury, or that she had a pre-existing medical condition that has prevented her from achieving maximal recovery if subjected to the M/G guideline, there is no genuine issue requiring a trial ⁱⁿ on these issues regarding the delegation claim is.</p> <p>The plaintiff has not provided ^{evidence} proof to confirm receipt of treatment related to the \$400⁰⁰ medical benefit claimed. In the absence of evidence that claimant also fails</p>
		<p>In the Result ^{judgment} decision will issue in favour of the defendant dismissing the plaintiff's claims. Costs of the action, including this motion for judgment, are fixed at \$12,000, inclusive of disbursements and HST.</p>
		<p style="text-align: right;"><i>Supriya J</i></p>