



Citation: Qureshi v. TD General Insurance Company, 2025 ONLAT 24-004808/AABS

Licence Appeal Tribunal File Number: 24-004808/AABS

In the matter of an application pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8, in relation to statutory accident benefits.

Between:

Muhammed Kamran Qureshi

Applicant

and

TD General Insurance Company

Respondent

DECISION

ADJUDICATOR: Harouna Saley Sidibé

APPEARANCES:

For the Applicant: Todd Reybroek, Counsel

For the Respondent: Adel Pippo, Counsel

HEARD: By way of written submissions

OVERVIEW

- [1] Muhammed Kamran Qureshi, the applicant, was involved in an automobile accident on August 5, 2023, and sought benefits pursuant to the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)* (the “Schedule”). The applicant was denied benefits by the respondent, TD General Insurance Company, and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.
- [2] Parties agree that the preliminary issue identified in the Case Conference Report and Order (“CCRO”) regarding the applicant’s attendance at section 44 insurer examinations has been resolved, as the applicant has now attended all scheduled assessments in September 2024. Therefore, the preliminary issue from the CCRO will not be addressed as part of this decision.

ISSUES

- [3] The issues in dispute are:
- i. Are the applicant’s injuries predominantly minor as defined in s. 3 of the *Schedule* and therefore subject to treatment within the \$3,500.00 Minor Injury Guideline Limit (“MIG”)?
 - ii. Is the applicant entitled to \$1,950.00 for concussion assessment, proposed by Hydro Active Therapy and Rehab in a treatment plan dated October 13, 2023?
 - iii. Is the applicant entitled to \$2,460.00 for a psychological assessment, proposed by Hydro Health Evaluations in a treatment plan dated December 20, 2023?
 - iv. Is the applicant entitled to \$2,573.72 for concussion treatment, proposed by Hydro Health Evaluations in a treatment plan dated March 25, 2024?
 - v. Is the applicant entitled to \$2,460.00 for a hydro health assessment, proposed by Hydro Health Evaluations, in a treatment plan dated April 9, 2024?
 - vi. Is the applicant entitled to \$2,817.53 for chiropractic services proposed by Hydro Health Evaluations in a treatment plan dated July 17, 2024?
 - vii. Is the applicant entitled to interest on any overdue payment of benefits?

- [4] In his submissions, the applicant formally withdrew the issue concerning the \$1,284.75 chiropractic treatment plan dated October 10, 2023.
- [5] In his submissions, the applicant stated that the interest claim was omitted from the CCRO. The respondent did not dispute the inclusion of interest as an issue. As a result, the issue has been added to the list above.

RESULT

- [6] For the reasons below, I find that:
1. The applicant's injuries are predominantly minor; therefore, the MIG limit applies.
 2. Since the applicant is subject to MIG, I do not need to assess whether the disputed treatment plans are reasonable and necessary.
 3. The applicant is not entitled to an interest.

ANALYSIS

Are the applicant's issues predominantly minor?

- [7] The applicant bears the onus of establishing, on a balance of probabilities, that his injuries fall outside the MIG. I find that he has not met this burden.
- [8] Section 18(1) of the *Schedule* provides that medical and rehabilitation benefits are limited to \$3,500.00 if the insured sustains impairments that are predominantly a minor injury. Section 3(1) defines a "minor injury" as "one or more of a sprain, strain, whiplash-associated disorder, contusion, abrasion, laceration or subluxation and includes any clinically associated sequelae to such an injury."
- [9] An insured may be removed from the MIG if they can establish that their accident-related injuries fall outside of the MIG or, under s. 18(2), that they have a documented pre-existing injury or condition combined with compelling medical evidence stating that the condition precludes recovery if they are kept within the confines of the MIG. The Tribunal has also determined that chronic pain with functional impairment or a psychological condition may warrant removal from the MIG. In all cases, the burden of proof lies with the applicant.

- [10] The applicant submits that he suffers from post-concussive syndrome, chronic pain meeting American Medical Association (AMA) Guides criteria, psychological sequelae including anxiety and irritability, and significant aggravation of pre-existing injuries from prior accidents in 2019 and 2020. He relies on Dr. David Huang's concussion report dated March 28, 2024, Dr. Mohammad Iqbal Chaudhary's clinical notes and records ("CNRs"), and Physiocare's disability certificate dated October 10, 2023. He argues that all of the above-mentioned factors prolong recovery and justify removal from the MIG. He also notes that the denied treatment plans limited his ability to continue therapy.
- [11] The respondent submits that the applicant's impairments are soft-tissue injuries consistent with sprains and strains. It argues that Dr. Huang, a chiropractor, is not qualified to diagnose a concussion; that emergency CT scans were normal; and that the neurological insurer's examination ("IE") report of Dr. Nagib Yahmad, dated September 6, 2024, found no neurological impairment. It further submits that the psychological IE of Dr. Charlotte Gooden, dated September 6, 2024, found no DSM-5 diagnosis and noted symptom exaggeration on validity testing. The respondent also notes the applicant returned to work shortly after the accident and has not demonstrated objective impairment inconsistent with the MIG.

Concussion

- [12] The applicant's family physician, Dr. Chaudhary, addressed complaints of neck and back pain shortly after the accident, as reflected in CNRs dated August 18, 2023, and September 9, 2023. However, these records do not document a concussion diagnosis or any post-concussive or neurological symptoms. Subsequent entries dated December 29, 2023, and February 24, 2024, are similarly silent on these issues.
- [13] The applicant relies on a report from Dr. Huang, a chiropractor, dated March 28, 2024, which diagnoses post-concussional syndrome based on subjective reports, questionnaires, and physical examination. I assign limited weight to this opinion because Dr. Huang is not qualified to diagnose a concussion, and his conclusion is primarily based on self-reported symptoms rather than objective neurological findings.
- [14] In contrast, the respondent's neurologist, Dr. Yahmad, conducted a comprehensive assessment on September 6, 2024. His report concludes that there is no neurological impairment and no basis for a concussion diagnosis. I find Dr. Yahmad's opinion persuasive because it is detailed, objective, and within

his scope of expertise. His findings are also consistent with Dr. Chaudhary's CNRs, which contain no evidence of post-concussive symptoms.

- [15] Considering the evidence as a whole, and on a balance of probabilities, I find that the applicant has not established that he sustained a concussion or post-concussional syndrome. Accordingly, this does not justify removal from the MIG based on a concussion.

Psychological Impairment

- [16] The applicant submits that he sustained psychological injuries as a result of the accident. He relies on Dr. Chaudhary's note of nervousness, an assessment by Physiocare and Rehab diagnosing acute stress reaction and PTSD, and Dr. Huang's report indicating irritability, sadness, and nervousness. The applicant argues that psychological treatment is required and asserts that such treatment is only accessible if he is removed from the MIG.
- [17] The clinical notes and records (CNRs) from Dr. Chaudhary dated September 6, 2023, record a single mention of nervousness, with no subsequent entries indicating ongoing psychological symptoms, prescribed medication, or referral for mental health care. Similarly, Dr. Huang's concussion assessment notes self-reported irritability, sadness, and nervousness but does not include any recommendation for treatment or referral. These factors reduce the weight placed on these observations in assessing psychological impairment.
- [18] In contrast, the respondent relies on Dr. Gooden's psychological insurer examination dated September 6, 2024. Dr. Gooden concluded that the applicant does not meet DSM-5 criteria for any mental disorder and noted symptom magnification on validity testing. Her addendum reaffirmed these findings.
- [19] I give significant weight to Dr. Gooden's opinion because it is comprehensive, well-reasoned, and supported by objective testing. Her assessment included standardized psychological measures and validity testing, which indicated symptom exaggeration, reducing the reliability of the applicant's self-reported symptoms. Her conclusions are also consistent with the treatment records, which do not document ongoing psychological symptoms, prescribed medication, or referrals for mental health care. On a balance of probabilities, these factors support her opinion.
- [20] Considering the evidence as a whole and on a balance of probabilities, I find that the applicant has not established the existence of a psychological condition or impairment warranting removal from the MIG.

Chronic Pain

- [21] The applicant submits that he suffers from chronic pain and meets the diagnostic criteria set out in the 6th Edition of the AMA Guides, specifically criteria i), ii), iv), v), and vi). He points to his use of prescription medications, including Vimovo, Baclofen, Tramacet, and Zopiclone, and states that he continued to rely on medication as recently as May 2024. The applicant also asserts that he has required ongoing medical management from Dr. Chaudhary and Physiocare and Rehab, and that he has relied heavily on family assistance with housekeeping tasks. Both Physiocare and Rehab, and Dr. Huang have documented his need for such assistance.
- [22] The respondent relies on insurer examinations. Dr. Jamie Ruben's orthopaedic assessment dated September 6, 2024, identifies soft-tissue strains and sprains. Dr. Yahmad, a neurologist, did not provide an orthopaedic diagnosis but noted findings consistent with musculoskeletal strain in his assessment.
- [23] While the applicant submits that he meets several criteria under the AMA Guides as outlined in paragraph 21, I find that the evidence does not establish this. The applicant did not provide detailed evidence or submissions addressing each required factor. A review of Dr. Chaudhary's clinical notes does not reveal signs of deconditioning, excessive reliance on healthcare providers, social withdrawal, or prescription drug dependence. Although short-term medication was prescribed, there is no indication of renewal, dependency, or excessive use. The applicant attended occasional therapy but has not demonstrated sustained reliance on treatment or family support. Notably, he returned to modified work in November 2023 and resumed full-time sedentary work in January 2024, showing no evidence of physical deconditioning, social withdrawal, or persistent functional loss. Further, the insurer's psychological assessor, Dr. Gooden, noted concerns about symptom validity, which undermines the reliability of the applicant's reported limitations.
- [24] In addition to not meeting the AMA Guides criteria, the applicant has not provided evidence or submissions demonstrating functional impairment attributable to pain. While chronic pain can be established without a formal diagnosis, it must be supported by credible evidence of impairment, which is absent in this case.
- [25] Considering the evidence as a whole, and on a balance of probabilities, I find that the applicant has not proven the existence of chronic pain with functional impairment that would warrant removal from the MIG.

Pre-Existing Conditions

- [26] Section 18(2) of the *Schedule* requires compelling evidence that a documented pre-existing condition will prevent maximal recovery within the MIG.
- [27] The applicant has a history of injuries, including back, shoulder, neck, and leg pain, as well as anxiety from prior accidents. However, no treating physician or assessor provides an opinion that these conditions would prevent recovery under the MIG. The applicant has also not directed me to any medical evidence establishing that these pre-accident impairments created a barrier to recovery within the MIG framework.
- [28] The CNRs from Physiocare and Dr. Huang do not support the applicant's position. These records are general in nature and lack any clear opinion linking the prior injuries to an inability to achieve maximal recovery under the MIG.
- [29] Dr. Ruben's report notes that the applicant reported a prior motor vehicle accident involving neck and back injuries. However, there is no objective evidence that these conditions would limit recovery if treated within the MIG limits. There is no compelling evidence that any pre-accident condition would prevent the applicant from reaching maximal recovery under the MIG.
- [30] On a balance of probabilities, I find that the applicant has not met the test under section 18(2) of the *Schedule*.
- [31] For these reasons, I conclude that the applicant's impairments fall within the definition of "minor injury" and that the MIG applies.

Is the applicant entitled to the disputed treatment plans?

- [32] As the applicant remains within the MIG, I do not need to assess the reasonableness and necessity of the disputed treatment plans.

Interest

- [33] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. Since no benefit is owed, interest does not apply.

ORDER

- [34] For the above reasons, it is ordered that:
- i. The applicant's injuries are predominantly minor; therefore, the MIG limit applies.

- ii. Since the applicant is subject to MIG, I do not need to assess whether the disputed treatment plans are reasonable and necessary.
- iii. The applicant is not entitled to interest.

[35] The application is dismissed.

Released: January 7, 2026



Harouna Saley Sidibé
Adjudicator