



Citation: Sharma v. Definity Insurance Company, 2026 ONLAT 24-007678/AABS

Licence Appeal Tribunal File Number: 24-007678/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:

Saket Sharma

Applicant

and

Definity Insurance Company

Respondent

DECISION

ADJUDICATOR:

Kenneth Nixon

APPEARANCES:

For the Applicant:

Jasmine Patel, Counsel

For the Respondent:

Jordan Hochman, Counsel

HEARD:

In Writing

OVERVIEW

- [1] Saket Sharma, the applicant, was involved in an automobile accident on September 5, 2022, 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, Definity Insurance Co., and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.

ISSUES

- [2] The issue(s) 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?
 - ii. Is the applicant entitled to \$214.24 (\$1,293.11 less \$1,087.77 approved) for Chiropractic treatment, proposed by Inline Rehabilitation Centre in a treatment plan (OCF-18) “plan” dated December 29, 2022?
 - iii. Is the applicant entitled to \$1,920.52 for psychological treatment, proposed by Inline Rehabilitation Centre in a plan dated January 5, 2023?
 - iv. Is the applicant entitled to \$4,217.71 for Physiotherapy treatment, proposed by Inline Rehabilitation Centre in a plan dated March 8, 2023?
 - v. Is the applicant entitled to interest on any overdue payments of benefits?

RESULT

- [3] I find that the applicant has not proven on a balance of probabilities that his accident- related impairments warrant removal from the MIG.
- [4] As the applicant is in the MIG, it is not necessary for me to consider if the treatment plans in dispute are reasonable and necessary.
- [5] I find that the applicant is not entitled to interest.

ANALYSIS

Minor Injury Guideline

- [6] Section 18(1) of the Schedule provides that medical and rehabilitation benefits are limited to \$3,500.00 if the injured person 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 clinically associated sequelae to such an injury”.
- [7] An injured person 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 from any accident-related minor injury 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.
- [8] The applicant is seeking removal from the MIG based on evidence that suggests that psychological impairments and a concussion may be as a result of the accident.

The applicant has not established injuries that warrant removal from the MIG

- [9] I find that the applicant has not provided sufficient medical evidence to establish that he suffers from accident-related impairments as a result of the accident. I was not directed to strong evidence, imaging or a specialist referral pertaining to a concussion and found that the evidence submitted pertaining to the psychological impairments were more of a provisional nature as opposed to a probable diagnosis and supported by clinical findings, test results, or observed functional limitations.
- [10] The applicant relies upon a report by Dr. Kevin Bar dated October 3, 2022, who the applicant refers to in his submissions as a “Physiotherapist” but who is listed in the medical evidence as a Chiropractor. Dr. Bar diagnosed the applicant with a mild cognitive disorder, chronic post-traumatic headache, disorders of initiating and maintaining sleep (insomnia, dizziness and giddiness, nervousness), paresthesia of skin, sprain and strain of shoulder joint and a concussion.

- [11] The respondent's reply to this report states that the physical impairments noted above fall within the definition of a minor injury and that any diagnosis of psychological impairments should not be considered as Dr. Bar is a Physiotherapist and not qualified to diagnose psychological impairments.
- [12] The applicant also relies upon a psychological report submitted by Psychologist Valery Kleiman dated March 11, 2023; however, it appears that the assessment was conducted, and the report was drafted by Sabrina Simmons a Psychological Associate. This report indicates that the applicant was suffering from an Adjustment Disorder, Mixed Anxiety and a specific disorder of Driver/Passenger Anxiety as a result of the accident
- [13] I put little weight on the report of Dr. Bar because he diagnosed psychological conditions that are not within his scope of practice. I put little weight on the psychological report because it is not adequately explained or supported by contemporaneous medical evidence.
- [14] The respondent submits that the applicant had a previous "out of country" accident in which he sustained injuries more severe than the injuries pertaining to this application. The respondent submits that the applicant fully recovered from the subject accident within one year. Since there are few details and medical evidence provided to substantiate, I am unable to consider the submission by the respondent that the previous accident is related to the current accident. In addition, since the applicant did not respond to the respondent's submission, I can only assume that there are no medical records available.
- [15] The respondent reports that although emergency services attended the scene of the accident, the applicant was not taken to the hospital. The Ambulance Call report was not provided despite being ordered to produce in the CCRO. Hospitalization is not required as symptoms can worsen post accident, however the call report could have provided further details to assist the writer in determination.
- [16] The respondent also submits that the clinical notes and records of Inline Rehabilitation Centre were mostly illegible. I put little weight on these comments since I was not directed to a request or production order to have them transcribed.
- [17] The respondent submits that on March 8, 2023 (approximately six months following the accident) the applicant advised his family doctor that "he was feeling 70-80% better, visiting the gym 5 times per week and sleeping well".

- [18] The applicant has not established through their submissions that the applicant's injuries fall outside of the MIG or provided compelling medical evidence stating that the condition(s) and treatment plans in dispute preclude recovery from any accident-related minor injury if they are kept within the confines of the MIG.
- [19] For the above reasons, I find on a balance of probabilities, that the applicant has not established that he should be removed from the MIG.

Treatment plans

- [20] As I have found the applicant to be within the MIG, it is not necessary for me to consider the reasonableness and necessity of the treatment plans in dispute.

Interest

- [21] As there are no benefits payable, interest is not applicable

ORDER

- [22] I find that
- i. The applicant has not met the onus to prove that as a result of accident-related issues that the applicant should be removed from the MIG.
 - ii. As the applicant is in the MIG, it is not necessary for me to consider if the treatment plans in dispute are reasonable and necessary.
 - iii. Interest is not payable.

Released: February 6, 2026



**Kenneth Nixon
Adjudicator**