



**Citation: Abdulrehman v. Co-operators General Insurance Company, 2026 ONLAT
24-014024/AABS**

Licence Appeal Tribunal File Number: 24-014024/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:

Mervat Abdulrehman

Applicant

and

Co-operators General Insurance Company

Respondent

DECISION

ADJUDICATOR: Steve Gilchrist

APPEARANCES:

For the Applicant: Bianca Crocetti, Paralegal

For the Respondent: Alexander Dos Reis, Counsel

HEARD: In Writing

OVERVIEW

- [1] Mervat Abdulrehman, the applicant, was involved in an automobile accident on May 29, 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, Co-operators General Insurance Company, and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.

ISSUES

- [2] 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 (“MIG”) limit?
 - ii. Is the applicant entitled to \$1,995.00 for a psychological assessment, proposed by E Clinic United Healing in a treatment plan submitted November 8, 2022?
 - iii. Is the applicant entitled to the assessments proposed by Q Medical, as follows:
 - (a) \$2,486.00 for a neurological assessment, in a treatment plan submitted January 30, 2023;
 - (b) \$2,486.00 for an orthopedic assessment, in a treatment plan submitted January 30, 2023; and,
 - (c) \$2,825.00 for a chronic pain assessment, in a treatment plan submitted December 5, 2024?
 - iv. Is the respondent liable to pay an award under s. 10 of O. Reg. 664 because it unreasonably withheld or delayed payments to the applicant?
 - v. Is the applicant entitled to interest on any overdue payment of benefits?

RESULT

[3] For the reasons that follow, I find that:

- i. The applicant's injuries are minor as defined by the *Schedule* and her treatment should be held within the MIG.
- ii. As the applicant is held within the MIG, it is not necessary to consider if the treatment plans in dispute are reasonable and necessary.
- iii. The applicant is not entitled to an award.
- iv. The applicant is not entitled to interest as there are no payments overdue for the benefits claimed.

SUBSTANTIVE ISSUES

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 MIG limit?

[4] On the balance of probabilities, I find that the applicant's injuries are predominantly minor, and her treatment should be held within the MIG.

ANALYSIS

[5] 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".

[6] 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.

[7] The applicant submits that she suffers from psychological injuries and chronic pain and should be excluded from the MIG. The respondent disagrees.

Should the applicant be removed from the MIG on the basis of chronic pain?

- [8] The applicant does not suffer from chronic pain with functional impairment which would warrant her removal from the MIG.
- [9] The applicant submits that the medical evidence of her chronic pain and the functional impact it has had on her activities of daily living justify her removal from the MIG and warrant the consideration that the treatment plans listed in this application are reasonable and necessary.
- [10] The applicant submits that she was involved in a serious accident on May 29, 2022. The respondent challenges that description and submits that it was a minor accident in which the air bags did not deploy and from which, the applicant was able to walk away with no need for on-scene medical assistance.
- [11] The applicant submits that she suffers from accident-induced chronic pain and submits the clinical notes and records (“CNRs”) of her family physician, Dr. Aida Morgan, Cassandra Medical and the Scarborough Medical Centre (“Scarborough Medical”) to support her claim.
- [12] Two days after the accident, the applicant attended at Cassandra Medical. Dr. Manhas diagnosed the applicant with soft tissue injuries, including “some neck/shoulder/back pain” and prescribed physiotherapy and massage therapy and over-the-counter medication.
- [13] There are no further indications of accident-related complaints in the CNRs of Cassandra Medical Clinic even including on October 4, 2023 when the applicant attended complaining of pain in her elbow and forearm from lifting and carrying, but no reference to any back or neck pain.
- [14] On June 8, 2022, the applicant had a phone consultation with Dr. Aida Morgan. During that conversation, the CNRs note Dr. Morgan diagnosed the applicant with “muscular strain on her back” and “sprain left shoulder”.
- [15] The applicant then attended Dr. Morgan, in person, on June 9, 2022 and, again, the CNRs of Dr. Morgan note a diagnosis of muscular strain in the upper and lower back. The CNRs also noted the examination of the applicant found her to have “no swelling or tenderness” of the back of any joints, good range of motion in her spine, sensations normal and reflexes normal. For treatment, Dr. Morgan prescribed over-the-counter pain medication and physiotherapy.

- [16] The applicant claims that there are “numerous notations”, beginning June 8, 2022, to her injuries in the CNRs of Dr. Morgan but, aside from references during the visits of June 8 and June 9, 2022, I was directed to no other accident-related complaints.
- [17] The applicant is also relying on an OCF-3 Disability Certificate prepared by chiropractor Christopher Haluskay on June 17, 2022. In that OCF-3, Dr. Haluskay diagnosed the applicant with sprains and strains of the spine, injuries to the neck and shoulder, sleep disorders, whiplash associated disorders and dislocation, sprain and strain of joints and ligaments of the shoulder girdle.
- [18] The respondent notes that the only injury listed in the OCF-3 which would remove the applicant from the MIG would be the dislocation but there is no other reference to dislocation in the CNRs of any of the applicant’s treating physicians.
- [19] Dr. Haluskay noted that his diagnosis of the injuries suffered by the applicant would resolve themselves within 9-12 weeks.
- [20] The applicant is also relying on the CNRs of Scarborough Medical which provided rehabilitation treatments of physiotherapy, massage and TENS machine usage. The applicant claims to have made reference, there, to the same physical injuries diagnosed by Drs Manhas and Morgan.
- [21] I find that the CNRs of Scarborough Medical/E-Clinic provide are of limited evidentiary value. The written notations are largely illegible, and the only clear evidence are charts that record the locations on the applicant’s body where she noted pain at her initial visit and again on August 30, 2022. The CNRs note that the only medication the applicant was taking was Advil.
- [22] The CNRs of Scarborough Medical do show the applicant attended exercises to stretch her neck, shoulders, upper extremities, chest and lower back at each visit. The applicant underwent 19 physiotherapy sessions, with the first taking place on June 10, 2022 and the last on November 11, 2022. I was provided no evidence that the applicant has undertaken accident-related treatments, of any kind, since then, and the applicant has not directed me to any entry in these records that references chronic pain.
- [23] The respondent provided the CNRs from two additional family doctors, Dr. Faris Mohammed and Dr. Gayanthi Thillaivasan. During the seven visits by the applicant between June 23, 2022 and February 23, 2024, she made no mention of any accident-related injuries.

- [24] On November 22, 2023, the applicant underwent a thorough interview and medical examination as part of her initial visit to Dr. Thillaivasan. The applicant provided a biographical overview as well as a comprehensive review of her family medical history and her personal medical history. There is no reference to accident-related injuries or chronic pain in this comprehensive review.
- [25] In my view, it is simply not credible that the applicant would have ignored accident-related chronic pain when asked to list all her general health concerns in that interview. This should be seen in the context of no accident-related complaints or treatments, by any other medical provider, since November 11, 2022.
- [26] While the applicant may have reported pain in the first months immediately post-accident, what is required for removal from the MIG is evidence of persistent pain with a functional impairment. The applicant has not established she has chronic pain, and I have not been led to any diagnosis of chronic pain, or ongoing prescriptions for pain medication or supportive medical evidence which indicates she has suffered any functional impairment.
- [27] For these reasons, I find that the applicant has not, on a balance of probabilities, met her onus to prove she should be removed from the MIG on the basis of chronic pain.

Should the applicant be removed from the MIG due to psychological injury?

- [28] I find that the CNRs of the applicant's family doctor do not support that the applicant sustained a psychological injury as a result of the accident.
- [29] The applicant submits that she should be taken out of the MIG because of her ongoing accident-related psychological impairments. For the reasons that follow, I find the applicant has not met her onus to prove she should be removed from the MIG due to psychological injury.
- [30] The applicant claims to have made complaints about psychological injuries to Dr. Morgan, Cassandra Medical and Scarborough Medical. Specifically, she claims to have reported stress while driving, driving anxiety, lack of motivation, pain, anhedonia, irritability, impatience and losing attention during conversations during her physiotherapy session at Scarborough Medical.
- [31] The initial visit to Cassandra Medical and the June 8 and June 9, 2022 visits to Dr. Morgan are the only CNRs which record any complaints of psychological symptoms.

- [32] During the initial assessment by Cassandra Medical, on May 31, 2022, the applicant was noted as having no neurological problems and “sleeping ok”.
- [33] There are no references to psychological symptoms in the CNRs of Dr. Mohammed or Dr. Thillaivasan.
- [34] The respondent takes the position that the applicant failed to provide a direct reference in the CNRs to the psychological injuries she is claiming. The respondent noted the requirement, in the Case Conference Report and Order, that “submissions must make specific reference to the evidence and authorities by tab and page number”. The applicant simply refers to a range of 109 pages.
- [35] Nonetheless, I reviewed the CNRs from Scarborough Medical/E-Clinic and I was unable to locate any references to the complaints the applicant claims to have made. The closest complaint was a questionnaire on August 30, 2022 which had the words “fatigue” and “stress” circled but which also noted that the applicant indicated she was getting seven hours of sleep per night.
- [36] The respondent argues that complaints, alone, don’t warrant removal of the applicant from the MIG. It cites *Washington v The Personal*, 2024 CanLII 4279 (ON LAT), para 18, and *Reid v Aviva General Insurance*, 2023 CanLII 72667 (ON LAT), paras 23-24 in support of the proposition that only a psychological impairment or medical diagnosis would warrant removal.
- [37] The applicant participated in a s. 25 psychological assessment, completed on December 5, 2022 by Julie Sarwan, registered psychotherapist. In the assessment report, the applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood; specific phobia, situational (travelling in a motor vehicle).
- [38] The respondent argues this assessment should be given no weight for three reasons. The first is that the author of the report was “under the direct supervision of” psychological associate Mandeep Singh. As the applicant underwent a virtual interview, the respondent argues the report does not indicate whether Mr. Singh actually met the applicant or was involved in the diagnoses or the crafting of the report.
- [39] Second, the respondent notes that the diagnoses in the s. 25 assessment are not corroborated by any references to psychological injuries in the CNRs of any of the applicant’s treating physicians.

- [40] Third, the respondent questions the failure of the report to identify the connection between the results of the psychometric testing and the conclusions reached by the report's author. In every case, the psychometric testing was "minimal", "mild", "below average" or "average or moderate" when ranking depression, anxiety, posttraumatic stress disorder, pain catastrophizing, and pain profiles.
- [41] While all three arguments were considered, I gave the most weight to the second argument. The complete lack of reference to any psychological complaints, in the CNRs of all the applicant's treating physicians, after the first few days post-accident, is of paramount consideration. In particular, the extensive intake interview by Dr. Thillaivasan on November 22, 2023, afforded the applicant every opportunity to enumerate any and all accident-related injuries. The fact that she chose not to do so would suggest that whatever accident-related psychological complaints she might have had, in the months following the accident, had resolved themselves by the date of the interview. Accordingly, I agree with the respondent that the diagnoses in the s. 25 psychological report are not supported by the objective medical record.
- [42] For the reasons outlined above, I find the applicant has not met her onus to prove she should be removed from the MIG due to psychological injury.

Is the applicant entitled to the treatment plans in dispute?

- [43] The applicant is not entitled to the treatment plans in dispute.
- [44] As I have found that the applicant continues to be held within the MIG, it is not necessary for me to determine whether the treatment plans in dispute are reasonable and necessary.

Award

- [45] I find the respondent is not liable to pay an award.
- [46] The applicant seeks an award under section 10 of Regulation 664. Under section 10, the Tribunal may grant an award of up to 50 per cent of the total benefits payable if it finds that an insurer unreasonably withheld or delayed the payment of benefits. The Tribunal has determined that an award is justified where the delay or withholding of benefits by the insurer is unreasonable conduct, meaning "behaviour which is excessive, imprudent, stubborn, inflexible, unyielding or immoderate." The onus is on the applicant to prove, on a balance of probabilities, that the respondent's conduct meets this test.

[47] The applicant has supplied me with no specific reference to an unreasonable act performed by the respondent in this matter. On the contrary, the respondent has, in the course of denying each of the treatment plans under dispute, provided specific reasons and/or requested additional information in order to effectively and fairly adjudicate the applicant's claims.

[48] It is worth noting that the applicant, herself, suggested that an award would be payable only if the Tribunal were to find in favour of her claim for one or more of the treatment plans in dispute. Given that I have found that the applicant is to be held within the MIG and the treatment plans are, therefore, denied, it follows that the applicant would not be entitled to a special award.

[49] I find the applicant has not shown that the respondent's conduct was unreasonable and, accordingly, I find that there is no basis for ordering an award under s. 10 of Reg. 664.

Interest

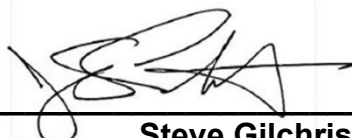
[50] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. As no benefits are overdue, the applicant is not entitled to interest.

ORDER

[51] The Tribunal orders:

- i. The applicant's injuries are minor as defined by the *Schedule* and her treatment should be held within the MIG.
- ii. As the applicant is held within the MIG, it is not necessary to consider if the treatment plans in dispute are reasonable and necessary.
- iii. The applicant is not entitled to an award.
- iv. The applicant is not entitled to interest as there are no payments overdue for the benefits claimed.

Released: June 3, 2026



Steve Gilchrist
Adjudicator