

NOVA SCOTIA COURT OF APPEAL
Citation: *McNaughton v. Ward*, 2007 NSCA 81

Date: 20070704
Docket: CA 273090
Registry: Halifax

Between:

Anne Ellen Louise McNaughton

Appellant

v.

Jennifer Ward and Morley Ward

Respondents

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: June 13, 2007

Subject: Bodily injury. Motor vehicle collision. Workplace mishap. Causation. **Athey v. Leonati**, [1996] 3 S.C.R. 458. Standard of review. Trial judge's advantage. Expert evidence. Error of law. Error of fact. Credibility. Construing and weighing the evidence. *De minimis*.

Summary: On March 13, 2000 the appellant, then a 44 year old registered nurse, was injured when the car she was driving was struck from behind by the respondents' vehicle. Liability for the accident was admitted. The appellant sued, claiming damages exceeding one million dollars for "multi-faceted chronic pain" which she said had caused permanent disability and left her completely incapable of earning an income.

After a 12 day trial, the judge awarded the appellant total damages of \$25,000. He concluded that while Ms. McNaughton did suffer a compensable soft tissue injury in the collision, the motor vehicle accident had neither caused nor materially contributed to the appellant's present condition. He determined that the injuries sustained in the motor vehicle accident were not disabling to any

degree. Based on the medical and other evidence he chose to accept, the trial judge considered it more likely that the appellant's continuing medical problems were brought on by a work related injury that arose some months after the motor vehicle collision. He was not persuaded that the workplace incident aggravated the injuries suffered in the motor vehicle accident.

The appellant alleged a series of legal and factual errors and asked that the decision be overturned and a new trial ordered, or that the court conduct its own assessment of her injuries and award the damages considered to be appropriate compensation.

Held: Appeal dismissed. Extensive review of the law of causation and the medical evidence presented at trial. The judge did not err in his interpretation or weighing of the evidence. He correctly applied the legal principles in **Athey v. Leonati**, [1996] 3 S.C.R. 458. The record supported his conclusion that the appellant's experts had been compromised in their opinions. His acceptance of the testimony and report of the respondents' medical expert was unassailable. The trial judge's analysis and damage award were sound, and ought not to be disturbed.

<p>This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 32 pages.</p>
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