

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
SCHNEIDER NATIONAL CARRIERS LIMITED, a body corporate, and MICHAEL MAGOON  (Appellants)	- and -	ROBERT LLOYD FOWLER, KIM FOWLER and CENTRAL EQUIPMENT LIMITED, a body corporate  (Respondents)
ROBERT LLOYD FOWLER and KIM FOWLER  (Appellants)	- and -	SCHNEIDER NATIONAL CARRIERS LIMITED, a body corporate, and MICHAEL MAGOON  (Respondents)
CA162820 & 164324	Halifax, N.S.	Freeman, J.A.

**[Cite as: Fowler v. Schneider National Carriers Ltd., 2001 NSCA 55]**

**APPEAL HEARD:** January 11, 2001

**JUDGMENT DELIVERED:** April 3, 2001

**SUBJECT:** **Contributory Negligence; Seat Belts; Apportionment**

**SUMMARY:** Appellant was permanently disabled when his loaded tractor-trailer struck a similar rig which had jack-knifed, blocking the highway. A jury found him contributorily negligent for not wearing a seat belt and assessed his fault for his own damages at 42.5 per cent. He appealed the assessment.

**ISSUE:** What was the appellant's degree of fault for not wearing a seat belt?

**RESULT:** The appeal of appellants was allowed. An assessment of 42.5 per cent of the fault is excessive for a driver who did not cause the accident and whose only negligence was with respect to his own safety. Applying **Froom v. Butcher**, [1975] 3 All E.R. 520 his fault was assessed at 15 per cent. Appeal of respondents was dismissed without costs.

**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 34 pages.**