

**CASE NO.**

**VOL. NO.**

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BERTHA JUNE LANGILLE

- and - MIDWAY MOTORS LIMITED, and  
CATHERINE AUBRECHT, Administratrix  
of the Estate of KARL FRANCIS AUBRECHT,  
deceased, and GUARDIAN INSURANCE  
COMPANY OF CANADA and WILLIAM  
VINCENT PARIS

(Appellant)

(Respondents)

CA 163256

Halifax, N.S.

ROSCOE, J.A.

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[Cite as: **Langille v. Midway Motors Ltd., 2002 NSCA 39**]

**APPEAL HEARD:**

March 21, 2002

**JUDGMENT DELIVERED:**

March 25, 2002

**SUBJECT:**

**Automobile Insurance: Section B benefits  
Judicature Act, s. 34(d)**

**SUMMARY:**

The appellant was injured in an accident while a passenger in her husband's vehicle. She was paid Section B benefits by his insurer for more than two years. Then the insurer, stopped the benefits claiming that she was then able to work. When the appellant sued for the continuation of the benefits, the respondent claimed that she had not been employed at the time of the accident and sought recovery of all amounts previously paid. The trial judge found that the appellant was not employed within the meaning of the policy and ordered repayment to the respondent.

**ISSUES:**

1. Did the trial judge err in finding that the appellant was not employed at the time of the accident, in rejecting her evidence, and in ordering the repayment of the benefits?
2. Did the trial judge lose jurisdiction by failing to comply with s. 34(d) of the **Judicature Act**, R.S.N.S. 1989, c. 240, by reserving the decision for a period of time exceeding six months?

**RESULT:**

Appeal dismissed. There was sufficient evidence before the trial judge to support all of the findings of credibility he made, and to support the conclusions of fact and law that he reached, on both the issues of non-entitlement to the benefits and the order for repayment.

The appropriate remedy for failure to deliver a judgement after trial within six months, should be an order for *mandamus*, not an order for a new trial. Since the decision has now been delivered, no order is required.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 4 pages.