

SUPREME COURT OF NOVA SCOTIA

Citation: Miller v. Andrecyk, 2010 NSSC 12

Date: 20100113

Docket: Syd. SCN 306356

Registry: Sydney

Between:

Bradley C. Miller

Appellant

v.

Shannon Andrecyk

Respondent

LIBRARY HEADING

Judge: The Honourable Justice Frank Edwards

Heard: January 11, 2010, in Sydney, Nova Scotia

Subject: Small Claims Court Appeal; liability in a motor vehicle accident; *Motor Vehicle Act* Section 111.

Facts: Claimant/Appellant made a lane change (from right to left lane) while the Respondent vehicle – which was exceeding the posted limit – was attempting to overtake him. The vehicles collided. The Adjudicator found the Appellant had breached S. 111(b) of the *MVA* and was therefore 50 percent responsible for the collision.

Issue: Appellant argues: (a) error of law saying the speeding Respondent 100 percent liable; and

(b) failure to follow requirement of natural justice – Adjudicator allegedly biased – questioned witness giving contradictory evidence.

Result: Appeal dismissed. (a) Adjudicator entitled to apportion blame when he found that, despite Respondent's speed, the Appellant

made an unsafe lane change.

(b) Difficult (without transcript) to assess merit of natural justice argument. Appellant claimed that Adjudicator repeatedly questioned witness who gave contradictory evidence. Alleged questioning appeared to play no role in Adjudicator's decision.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***