

SUPREME COURT OF NOVA SCOTIA

Citation: Sabean v. Portage LaPrairie Mutual Insurance Company,
2013 NSSC 306

Date: 20130930

Docket: HFX. No. 329383

Registry: Halifax

Between:

Andrew Sabean and Cathy Hallett

Plaintiffs

v.

Portage LaPrairie Mutual Insurance Company

Defendant

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Judge: The Honourable Justice Patrick J. Murray

Heard: Submissions, May 15, 2013

**Written
Decision:** September 30, 2013

Subject: Excess Insurance. Deductibility of future CPP disability benefits payable to a Plaintiff under an "SEF 44 claim". Interpretation of Insurance Policy SEF 44 Endorsement.

Summary: Mr. Sabean, the Plaintiff, suffered injury resulting from a motor vehicle accident at or near Bridgewater, Nova Scotia, in October, 2004.

The driver of the other vehicle was inadequately insured. The Plaintiff claimed under the excess insurance provisions of his policy with the Defendant. A jury awarded Mr. Sabean damages. The Court was asked to decide whether the CPP disability benefits payable to Mr. Sabean in future should be deducted from the award. The parties agreed that CPP benefits paid up to the date of trial were deductible.

Issue: Whether future CPP disability benefits are deductible from an award of damage to the Plaintiff in claim under an SEF 44 claim?

Result: The Court ruled that CPP disability benefits are not deductible from an award of damages. Clause 4(b)(vii) of SEF 44 endorsement interpreted by the Court to mean that “policy of insurance”, does not include Canada Pension Plan Disability Benefits.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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