

CANADA / JUDGMENT

Hammersley v. Ghiami

2025 BCSC 950

COURT

Supreme Court of British Columbia

DECIDED

21 May 2025

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2025 BCSC 950 Hammersley v. Ghiami

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Hammersley v. Ghiami,

2025 BCSC 950

Date: 20250521

Docket: M87917

Registry: Nanaimo

Between:

Jackie Hammersley

Plaintiff

And

Somayeh Ghiami and Ahmad Nourani Shallo, Deceased

Defendants

Corrected Judgment: The text of the judgment was corrected at paragraph 4 on June 19, 2025.

Before: The Honourable Mr. Justice Baird

Reasons for Judgment

Counsel for the Plaintiff:

I. McIver

Counsel for the Defendants:

R. Brun, K.C.

Place and Date of Trial:

Nanaimo, B.C.

May 6, 2025

Place and Date of Judgment:

Nanaimo, B.C.

May 21, 2025

INTRODUCTION

- [1] The plaintiff in this motor vehicle negligence case has brought a summary trial application pursuant to R. 9-7 of the Supreme Court Civil Rules, B.C. Reg. 168/2009 seeking the following order, plus costs:

That liability for the motor vehicle accident of June 8, 2017, involving a collision between a white 2005 Mazda hatchback, owned by the defendant Somayeh Ghiami, driven by the defendant Ahmad Nourani Shallo, [deceased,] and a 2015 black GMC Sierra owned and driven by Joshawa Mathers in which the Plaintiff Jackie Hammersley was riding as a passenger, be assessed 100% as against the Defendant, Ahmad Nourani Shallo, Deceased.

- [2] The application is opposed by counsel appointed to act for Ahmad Nourani Shallo, deceased ("Mr. Shallo"), who argues that the issue of liability is not suitable for summary determination. Counsel for Somayeh Ghiami filed responsive pleadings adopting and relying upon Mr. Shallo's submissions and authorities but did not attend the hearing.

BACKGROUND

- [3] The accident in question occurred at approximately 4:30 p.m. on June 8, 2017 on the Trans-Canada Highway near Glacier Park East Gate, west of Golden, British Columbia. The accident was significant and involved five vehicles. It caused the death of Mr. Shallo and injuries to others including his wife, Somayeh Ghiami, his son Koroosh Shallo, the plaintiff and another motorist called Robert Scott Schoof.
- [4] The highway where the accident occurred is actually oriented in roughly a north/south direction, but as most of us think of it as a means of getting west or east across the country, I will describe things in those terms. There is one lane of travel for westbound motorists and two lanes of travel for those heading east. The westbound lane has a slight downhill grade while the eastbound lanes are slightly uphill. There is a double yellow dividing line. The speed limit is 90 km/h. At the time of the accident it was overcast and raining. The road surface was slippery and wet.

- [5] The plaintiff was the front-seat passenger in a 2015 GMC Sierra driven by Mr. Joshawa Mathers. They were in the westbound lane heading to Langley, British Columbia towing a trailer with two motorcycles in it. Mr. Shallo was driving a 2005 white Mazda 5 hatchback owned by Somayeh Ghiami, who was in the front passenger seat. Their young son, Koroosh Nourani Shallo was in the back. They were headed east for Calgary, Alberta.
- [6] Mr. Shallo was travelling in the inside eastbound lane, also known as the fast lane, when for some reason he crossed over the double yellow centre line into the oncoming westbound lane and collided with Mr. Mather's Sierra. The front driver's side corner of the Mazda struck the front driver's side corner of the Sierra. The accident knocked the plaintiff unconscious. Mr. Mathers was able to bring the Sierra to a stop on the westbound shoulder of the road without colliding with any other vehicle.
- [7] The force of this first impact propelled the Mazda back into the eastbound lanes of travel where it struck a Chevrolet pick-up truck travelling in the outside or slow lane; this second impact sent the Mazda careering back into the westbound lane, where it collided with a large transport truck driven by Robert Beaudoin and owned by Taiko Trucking Inc.; the colossal violence of this third impact fired the Mazda back into the eastbound lanes, where it smashed into a Chevy Silverado driven by Robert Scott Schoof.

LAWSUITS

- [8] Three lawsuits other than the present one have been filed in respect of the accident as follows:
- 1) Somayeh Ghiami v. Ahmad Nourani Shallo, Deceased, Joshawa Mathers, Frank Robert Beaudoin, and Taiko Trucking Inc., Vancouver Registry No. 187399 ("the Ghiami action");
 - 2) Robert Scott Schoof v. Somayeh Ghiami and the Estate of Ahmad Nourani Shallo, Kelowna Registry No. 122399 (the Schoof action"); and,
 - 3) Koorosh Nourani Shallo, an infant by his litigation guardian, the Public Guardian and Trustee of British Columbia v. Ahmad Nourani Shallo, Somayeh Ghiami, Joshawa Mathers, Frank Robert Beaudoin, and Taiko Trucking Inc., Vancouver Registry No. 220446 ("the Koroosh Shallo action").
- [9] A case planning conference was arranged by counsel for Mr. Shallo with notice to all counsel involved in the Ghiami and Schoof actions. It seems that the present plaintiff, Mr. Hammersley, did not receive formal notice, but his counsel was permitted to attend the conference and granted leave to file a late case plan proposal. On October 14, 2021 Master (now Associate Judge) Keim made the following case plan order:
1. Leave for counsel in Action No. M87917, Nanaimo Registry (Hammersley v. Ghiami et al) is granted leave to participate in today's Case Planning Conference.

2. Counsel in Action No. M87917, Nanaimo Registry (Hammersley v. Ghiami et al) is granted leave to file a Case Plan Order applicable in the within action.
 3. The liability-only portion of the within [Ghiami] action and Action No. M87917, Nanaimo Registry (Hammersley v. Ghiami et al) and Action No. 122399, Kelowna Registry (Schoof v. Ghiami et al), shall be tried for 10 days in Vancouver at the same time or on the same day, subject to the direction of the Trial Judge.
 4. The court file in the Schoof v. Ghiami et al action (Kelowna Registry) and the Hammersley v. Ghiami et al (Nanaimo Registry) shall be transferred to the Vancouver Registry for the purposes of hearing the liability-only trial.
 5. The actions will be tried together and the evidence shall be deemed admissible in the other, subject to the direction of the Trial Judge and the right of any party to dispute the admissibility, in one of the actions, of evidence admissible in the other action on the basis of relevance or otherwise.
 6. The actions will proceed to trial as if they are separate actions and nothing in this Order shall be construed to merge the claims in the actions.
 7. This Order shall not prejudice any application by a party pursuant to Rule 9-7 of the Rules of Court for judgment generally or on an issue in any action.
 8. A party may apply for an Order that the actions be tried separately in the event that a material change in circumstances suggests a common trial will result in delay, complication or prolongation of the trial or otherwise prejudice a party.
 9. A party adverse in interest be permitted to obtain copies of and to make use of all relevant documents and discovery transcripts across all actions in the same manner as if the documents and discovery evidence originated from that party's action.
 10. The parties hereto may sign this Order in counter-part.
- [10] It will be noted that this order does not cover the Koroosh Shallo action, which was not filed until January 31, 2022. As far as I have been made aware there is no order of this court joining it with the others for the 10-day liability-only trial which is now scheduled to begin on November 17, 2025.

SUITABILITY

- [11] In the Ghiami, Schoof and Koroosh Shallo actions, the plaintiffs have sued Mr. Mathers, the driver of the vehicle in which Mr. Hammersley was traveling at the time of the accident. They claim, essentially, that Mr. Mathers was at least partially at fault for the collision because he was driving too fast for the wet, slippery and downhill road conditions, especially given that he was towing a heavy trailer with two touring motorcycles in it.

- [12] Counsel for Mr. Shallo does not dispute that his late client was at fault for crossing into the oncoming lane. No cause for this other than his negligence has been advanced. But there is evidence in the record before me to suggest that there may be at least some merit to the claim that Mr. Mathers bears a degree of responsibility based on the possibility that his speed in the prevailing conditions may have deprived him of the ability to take reasonable steps to avoid the accident or reduce its severity.
- [13] It follows that I am not prepared to make the order sought on this application that Mr. Shallo was 100 percent liable for the collision with Mr. Mather's Sierra. I am persuaded, instead, that the case requires the combined conventional trial on the issue of liability that Master Keim ordered. If not already done, the Koroosh Shallo action should be joined with the others for this purpose. In my respectful view, all issues of liability apportionment and contributory negligence raised in the four lawsuits related to this terrible accident should be dealt with simultaneously by a single judge. Nothing that I have said in this ruling is intended to express any substantive opinion about these issues or to fetter the discretion of the trial court.

CONCLUSION

- [14] The plaintiff's application for a summary trial on the issue of liability is hereby dismissed. Costs will be in the cause.

"Baird J."

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