

CANADA / JUDGMENT

Takhar v. Sidhu

2016 BCSC 582

COURT

Supreme Court of British Columbia

DECIDED

11 February 2016

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2016 BCSC 582 Takhar v. Sidhu IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Takhar v. Sidhu, 2016 BCSC 582 Date: 20160211 Docket: M146418 Registry: Vancouver Between: Nachhatar S. Takhar Plaintiff And Ajit S. Sidhu, 0751592 B.C. Ltd. and Star Limousine Service Ltd. Defendants Corrected Judgment: The text of the judgment was corrected on the front page on March 22, 2016. Before: Master Baker Oral Ruling In Chambers Counsel for the Plaintiff: P.P. Dosanjh P.T. Ladner Counsel for the Defendants: B. Cheng Place and Date of Hearing: Vancouver, B.C. February 11, 2016 Place and Date of Ruling: Vancouver, B.C. February 11, 2016

- [1] THE COURT: This is an application by the defendant in proceedings brought by Mr. Takhar respecting injuries he alleges arose from a motor vehicle accident which occurred in October of 2012.
- [2] What is requested is that Mr. Takhar attend with Dr. Dost, a neurologist, that he do so on the 23rd of February. He has already attended on one defence medical examination. That is by Dr. Younger, an orthopedic surgeon. That report has not been delivered.
- [3] This application is dismissed for the following reasons. There is no question that Mr. Takhar has a complex and interesting past when it comes to injuries. No question at all about that. What is among other things relevant to that is that the plaintiffs seem to have been exceptionally forthcoming in producing information.
- [4] There are two things that vex the bench in personal injury cases. It is pleadings and disclosure. The pleadings are, and I have become possibly famously critical of this, so template that they are almost transferable. This is not that case at all. Quite the opposite. In fact, it is possible it is at the extreme opposite.
- [5] We are also faced with consistent and chronic applications for disclosure, whether they are in case planning conferences or chambers applications. Again, this is not that case either, and I am satisfied it is quite the opposite. That factors into a couple aspects of this.
- [6] That disclosure has gone all the way back to Mr. Takhar's wrist injury in 1989, hospital records back to that, his physician's records I understand from 2007. It is a matter of fact and acknowledged that he had ankle injuries in 1995/96. He had a work-related lower back injury in 2008. He had a different motor vehicle accident with consequences, of course, in May of

2010. He also had a work-related back issue in December of that year, and in 2010 he had some psychiatric consultation respecting depression and chronic pain, all of these pre-accident, all of these out there, so to speak, and discussed.

- [7] The consequents of this accident, he says, are, well, "multiple" would be a huge understatement. He had pled by my count 78 different consequences, results or symptoms from lacerations, broken bones, to other factors.
- [8] Seems to me that in this constellation of injuries and consequences the neurological aspects of this are, in that constellation, practically Pluto. It would be almost unthinkable that somebody who has had the history that Mr. Takhar has had or claims to have had the 78 different injuries or results of his accident, it would be practically unthinkable that somewhere in there, there would not be a neurological element. Of course there would be. It is pretty hard to do all those things to somebody, break those bones, scrape them up, cut them, scratch them, bang their heads and not have some neurological implications.
- [9] But what is fascinating to me is that, as Mr. Dosanjh has said, in the blizzard of medical records, papers, consultations, reports, from Worker's Compensation to treatment reports to these proceedings themselves, there is practically speaking no indication of neurological examinations or symptoms having been observed. It is true, it is one of the oldest clichés in this particular business that the absence of evidence is not necessarily evidence of absence. We understand that. But in this case I think it is pretty compelling. Hard to prove a negative but it seems to me that in this situation it is awfully close to that.
- [10] The various factors that are listed by the defence as compelling the neurological investigation are paragraph 20 of the application itself. I agree again with Mr. Dosanjh that they are in large measure, in my respectful view as a non-expert, orthopedic in nature.
- [11] I said that the extensive disclosure has a couple of aspects of interest to it. One I have already referred to, that in all that disclosure there seems to be very little, or anything, that rings that neurological bell, but also I agree with Mr. Dosanjh in this: the high volume of disclosure together with the delivery some months in advance, of the plaintiff's IME by Dr. Anton, a physiatrist, must have guided the defence to their choice. They get one choice under the rule, and that was made clear to them by Mr. Dosanjh. And they had ample time, ample documents by which to choose that expert, and they chose an orthopedic surgeon, Dr. Younger.
- [12] That addresses the onus, in part at least, given that it is not anything done in a dearth of information or on a very short term opportunity. It is quite the opposite. This may be a full answer to the application in and of itself: nobody has ever seen Dr. Younger's report, certainly nobody from the plaintiff's side and not the court either.

- [13] I agree entirely with counsel when I say that the answer to that aspect, that to an application in the circumstances in *Thandi v. Higuchi*, 2015 BCSC 2366, a decision of Master Harper, referring in part to *Koulechov v. Dunstan*, 2015 BCSC 393, both cases which address at least in part the problem of the court considering a second IME, recognizing that the rules require that the defence meet a higher onus on such an application.
- [14] There is the difficulty or possibly the impossibility, and I do not think that word is used unwisely, the practical impossibility of measuring that onus or the achievement of it in the absence of the report of the first IME. We do get these. We hear these applications. We hear applications obviously and of course for second IMEs, but very often a party will come to the court and say, "here is the report of the first IME, there are complex injuries, and this specialist, say an orthopedic surgeon, has observed this and this and here at page 27 of Dr. Smith's report is a clear delineation of the limits to Dr. Smith's knowledge and ability to ascertain a very problematic symptom, the causes of it".
- [15] Very often they will say, "look, this looks to be beyond my area of expertise, this looks to be a problem psychiatric in nature or neurological in nature" or something like that. Good. Now the court has something to anchor its analysis to. We do not have that here.
- [16] So for all these reasons this application is dismissed with costs. "Master Baker"

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/16/05/2016BCSC0582.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/takhar-v-sidhu-2016>

Prepared on 27 October 2026 · Esheria