

CANADA / JUDGMENT

Waters v. Bains

2009 BCSC 286

COURT

Supreme Court of British Columbia

DECIDED

3 March 2009

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2009 BCSC 286 Waters v. Bains IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Waters v. Bains, 2009 BCSC 286 Date: 20090304 Docket: S050256 Registry: Vancouver Between: Karamjeet Kour Singh also known as Karamjeet Kour Waters Plaintiff And Joginder Singh Bains also known as Giani Joginder Singh Bains, and Darshan Kaur Bains Defendants Before: The Honourable Madam Justice Morrison Reasons for Judgment Counsel for the Plaintiff C. Frederick Easton Counsel for the Defendants Bernie S. Buettner G. Jack Harris, Q.C. Date and Place of Hearing: February 5, 2009 Vancouver, B.C.

- [1] Further to the decision on damages which was rendered in this court on June 25, 2008 (Waters v. Bains, 2008 BCSC 823), counsel for the plaintiff now seeks a decision on the amount of Court Order Interest to be awarded to the plaintiff from the date of June 1, 1974 to the present.
- [2] This relates to the issue of prejudgment interest on the punitive damages only. Punitive damages of \$80,000 were awarded in the judgment of June 25, 2008.
- [3] Section 1 of the Court Order Interest Act, R.S.B.C. 1996, c. 79, provides that a court must add to a pecuniary judgment an amount of interest. Punitive damages come within the definition of a pecuniary judgment.
- [4] Section 6 of the Act establishes that this does not apply to a cause of action that arose prior to June 1, 1974. The plaintiff submits that the cause of action commenced at some date in 1967, but continued beyond June 1, 1974. Therefore, the interest would commence June 1, 1974 and continue to the date of final judgment.
- [5] Section 1(1) of the Act provides that the prejudgment interest is to be at a rate that the court considers appropriate.
- [6] The defendants had suggested that the interest rate should be no greater than 1/10th of 1% per annum. This was relying upon the decision in Osborne v. Harper, 2006 BCSC 51.

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- [7] Counsel for the plaintiff points out there is no longer a minimum rate of interest provided for in the Act. Counsel for the defence agree. In suggesting that this court should fix an appropriate rate in all the circumstances, counsel for the plaintiff suggests a rate of interest similar to the amount awarded in the decision of Mr. Justice Bouck in *S.Y. v. F.G.C.* (1997), 32 B.C.L.R. (3d) 235 (S.C.), 5%.
- [8] That was a case where the plaintiff had been sexually and physically abused by her stepfather over a period of eleven years.
- [9] In my view it is appropriate to fix a higher rate than in *Osborne v. Harper*; prejudgment interest will be awarded from June 2, 1974 to June 25, 2008 at the rate of 3%. "Morrison J."
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