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<p>THE ANNOTATED BRITISH COLUMBIA INSURANCE (VEHICLE) ACT Gregory & Gregory Release No. 2, April 2024</p>
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This looseleaf contains the full text of the *Insurance (Vehicle) Act* and Regulations, as amended, plus annotations of all important case law interpreting the legislation since 1975. An introductory chapter describes the history of the legislation and the policy surrounding its development and a complete Index and Table of Concordance to the former and present Regulations are also included.

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What's New in this Update:

This release updates the case law and includes 14 new case digest annotations throughout the Act and Regulation. Additionally, two Issues in Focus memos have been updated: IF:5 “What are the steps necessary for proper termination of a policy of automobile insurance in the Province of British Columbia?” and IF:6 “When will a passenger’s interference with a driver in the course of a motor vehicle accident constitute “the use and operation” of a motor vehicle thereby triggering a duty to defend the passenger?”.

Highlights

- **Insurance (Vehicle) Act — Part 1 — Universal Compulsory Vehicle Insurance — S. 24 — Remedy for damages in hit and run accident** — The plaintiff was injured after another vehicle turned left in front of his motorcycle, causing him to fall to the ground with his bike. His collar bone was shattered, and he had other serious physical injuries. He remained on the ground, while the other drive left the scene. The police attended and obtained a witness statement, but the plaintiff understandably did not obtain any other witness information at the scene. He was taken to hospital by ambulance. Several days later, him and his parents put up signs for witnesses around the area of the accident, and canvassed local businesses for video surveillance, without any luck. The one witness who was interviewed by the police did not get the licence plate. At trial, ICBC argued the plaintiff was barred from recovery under section 24 of the Insurance Vehicle Act as he had failed to take all reasonable steps to identify the other driver. The court quickly rejected that argument, finding what the plaintiff and his parents had done was sufficient in the circumstances, and reiterated that plaintiff’s do not bear an “exceptionally onerous obligation” to identify their hit-and-run drivers: *Manoocheri v. Doe*, 2023 BCSC 2056.
- **Insurance (Vehicle) Act — Part 6 — Vehicle Actions — S. 98 — Recovery for Loss of Income — Past and Future Income Loss** — The 61-year-old plaintiff owned a successful talent agency at the time of the subject accident in October of 2018. The agency had 8 talent agents and was considered one of the premier agencies in the city. As a result of the accident, the plaintiff suffered various soft tissue injuries that left her with chronic pain and, at times, debilitating headaches. She had previously been working long hours 7 days per week but had to significantly scale back after the accident. She transferred most of her work to other agents, and still kept a portion of the commissions earned on their bookings. The

court awarded her \$70,000 in past lost earning capacity for the lost commissions she would have earned but for the accident from the date of the accident to the time of trial. The court also awarded her another \$180,000 for lost commissions to the date of retirement due to her injuries, factoring in a significant adjustment for the fact that she would have scaled down her work over her remaining time working regardless of the accident: *Richardson v Hartwick*, 2023 BCSC 2151.

- **Insurance (Vehicle) Act — Part 6 — Vehicle Actions — S. 98 — Recovery for Loss of Income — Past and Future Income Loss** — The 52-year-old plaintiff worked as a massage therapist at the time of the subject accident in June of 2016. She had just completed schooling for massage therapy the previous year and was in the process of building her clientele and her business. She suffered various injuries in the subject accident, including a labral tear and a brain injury, which took several years to recover. She was left with chronic soft tissue pain that adversely affected her work. The court awarded her \$150,000 in past lost earning capacity, finding that as a result of the injuries she sustained in the accident, she was forced to reduce her workweek to four days per week, resulting in her seeing three to five less patients per week. The court declined to award her any loss for 2022 and 2023 as she did not produce evidence to establish the loss in those years. The court also awarded her \$300,000 in lost future earning capacity, finding that she would continue to suffer a reduction in the number of patients she could take until retirement, subject to an adjustment for business risk and voluntary part time work that may have manifest in any event of the accident: *Groeneveld v Hissink*, 2023 BCSC 2027.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
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