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### **DAMAGES FOR PERSONAL INJURY AND DEATH — DIGEST SERVICE**

**Anthony Duncan, B.A., LL.B. and Adèle Turgeon, B.A., LL.L.**

**Release No. 1, December 2024**

This service provides the most comprehensive and up-to-date collection of court decisions in which damages for personal injury or death have been awarded. It keeps subscribers abreast of the latest quantum of damages judgments and provides a wealth of cases upon which the researcher may draw.

### **What's New in this Update**

This release features new and updated case digests in the following sections: § 6 Multiple Injuries – Multiple Injuries; § 7 Head – General, § 8 – Brain and Skull; § 19 Senses – Sight, § 20 – Hearing, § 23 – Balance; § 24 Spine – Neck, § 25 – Spine Below Neck, § 26 – Whiplash; § 27 Body – External and Internal – Shoulder and Collar Bone, § 28 – Back, § 28A – Lower Back, § 29 – Ribs, § 31 – Hip; § 40 Arms – Wrist, § 42 – Fingers and Thumbs; § 46 Legs – Knee, § 47 – Lower Leg, § 49 – Foot; § 52 Miscellaneous Conditions – Pre-Existing Disability or Condition, § 53 – Traumatic Neurosis, § 53A – Depression, and § 53B – Chronic Pain Syndrome.

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## Case Law Highlights

Plaintiff suffered injuries when he was struck by defendant's vehicle while riding his bicycle. Prior to the collision plaintiff had suffered prior injuries, including fractures to his spine, two previous concussions, injuries to his head, scalp, neck, and shoulder, previously had major neurocognitive disorder, major depressive disorder, generalized anxiety disorder, and post traumatic stress disorder, and had been diagnosed with chronic obstructive pulmonary disease. As a result of the collision, plaintiff suffered a mild traumatic brain injury, fractured ribs, soft tissue damage to his right shoulder, right leg, right knee, right hip, his lower back, and neck. Pre-existing cervicogenic headaches were aggravated, as was his pre-existing post-traumatic adjustment disorder, depression, and anxiety. The collision also exacerbated or caused a reoccurrence of major neurocognitive disorder, major depressive disorder, generalized anxiety disorder, and PTSD. Plaintiff developed a functional neurological symptom disorder, as a result of this condition, plaintiff displayed dramatic movements stuttered, and had difficulty word-finding, resulting in interpersonal difficulties and difficulties with social relationships. He was left fully disabled from competitive employment. Plaintiff's life changed drastically due to his injuries. His injuries were severe and permanent, resulting in a diminished ability to enjoy his life. Stephens J. awarded plaintiff general damages in the amount of \$170,000, as well as \$115,318 for loss of future earning capacity, and \$27,890 for cost of future care.

*Davie v. Hill*, 2022 CarswellBC 3329 (B.C. S.C.)

Plaintiff, aged 64, suffered injuries when the driver of the vehicle in which she was a passenger fell asleep and drove off the highway at a speed of 80 km/h, traveling into a ditch and suffering significant damage to the front passenger side. After the collision plaintiff was airlifted to hospital with three spinal fractures, and remained in hospital for 10 days. Plaintiff suffered significant injuries, including a mild traumatic brain injury, three vertebral fractures, injuries to her sternum, soft tissues injuries to her shoulder, neck, and back, an injury to her left abdominal wall, right leg, right knee, and headaches. Pre-existing vertigo and dizziness were aggravated. She suffered anxiety and depression, post-concussion syndrome, cognitive difficulties, sleep difficulties, and chronic pain in her left shoulder, neck, and back. The impact of these injuries on plaintiff's life was devastating. Defendants failed to establish that plaintiff failed to mitigate her damages. Power (J.A.) J. awarded plaintiff general damages in the amount of \$250,000, as well as \$517,100 for cost of future care.

*Harper v. Mezo*, 2024 CarswellBC 1458 (B.C. S.C.)

Plaintiff, an RCMP officer, suffered injuries when his vehicle was struck from behind. Prior to the collision plaintiff suffered pre-existing neck and back pain. The collision caused soft tissue injuries to his neck and lower back. He developed eye pain and headaches, especially with prolonged computer use and exposure to fluorescent lighting. He suffered headaches exacerbated by conversations with multiple people, and his headaches often led to nausea. He initially took one month off work, but his conditions worsened and he took a further two months off. When his symptoms did not improve and resolve as quickly as he expected, his mood deteriorated and he became depressed. Steroid injections

provided some temporary relief, but caused unpleasant side effects. He suffered from ongoing neck and lower back pain and ongoing eye pain when exposed to fluorescent lighting and prolonged computer use. His symptoms were unlikely to fully resolve. No reduction in damages was made for any pre-existing conditions. Lamb J. awarded plaintiff general damages in the amount of \$140,000, as well as \$400,000 for loss of future earning capacity, \$70,000 for loss of housekeeping capacity, and \$19,600 for cost of future care.

*Vasan v. Herd*, 2022 CarswellBC 3219 (B.C. S.C.)