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**THE OATLEY-McLEISH
GUIDE TO PERSONAL INJURY PRACTICE IN
MOTOR VEHICLE CASES**
**Joseph A. Cescon, Lindsay Charles,
Robert Durante and Troy Lehman**
Release No. 1, August 2025

This service provides the essential step-by-step guidance to effectively manage the complexities of Ontario’s no-fault insurance system. There are over one hundred chapters provide everything you need including: Interviewing the client, to taking control of the case, Investigating liability, Commencing the action and formulating liability and damages, preparing your client for discovery, to the examination for discovery of the plaintiff, preparing for Trial, accident Benefits in Ontario, negotiation and settlement and opening and closing statements. Expert tips and techniques help you gain the knowledge and confidence you need to address all your client’s personal injury concerns. This service also provides a quantum table assists in assessing what your claim is worth and easy-to-customize sample letters and forms, case law dealing with the interpretation of the legislation and appendices.

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What's New in this Update:

This release includes all relevant updates to the personal injury quantum table over the past year. The cases included are drawn from relevant trial and appeal decisions of all Canadian courts where a quantum has been specified in the last 8 years.

Highlights:

- **Mild to Moderate Brain Injuries**—24-year old legal assistant. Two motor vehicle collisions; struck from behind; soft tissue injuries to her neck and back, pain in both hips, headaches, and driving anxiety second collision caused a concussion, immediate pain, nausea, increased anxiety headaches that were intense at times, sometimes leading to vomiting; increased stiffness, tension, and limited range of motion in her neck, soft tissue injuries in her shoulder, upper back, mid-back, and lower back, and an increase in her anxiety and depression symptoms, with more frequent anxiety attacks; disc herniation discovered three years after the collisions was caused by the collisions; chronic myofascial pain, depression, anxiety, and the effects of the mild traumatic brain injury, resulting in disability; Court of Appeal allowed defendant's appeal of a global award for cost of future care, remitting assessment back to trial judge, but dismissed appeal on causation and on assessment of damages for loss of future earning capacity. FUTURE LOSS OF EARNINGS: \$627,508.00. FUTURE CARE COSTS: To be determined. GENERAL/NON-PECUNIARY DAMAGES: \$200,000.00: *Zenone v. Knight*, 2024 CarswellBC 1501, British Columbia Court of Appeal.
- **Serious Orthopedic Injuries**—At birth. Medical negligence during birth; shoulder got stuck behind mother's pubic bone; severe left obstetrical plexus traction type injury, of the most severe type, involving all 5 roots of the left brachial plexus; left with paralyzed left arm and hand, expected to be permanent; would never have use of left arm and hand; future surgeries may be required; Court of Appeal dismissed defendant's appeal on liability. FUTURE LOSS OF EARNINGS: \$506,302.00. GENERAL/NON-PECUNIARY DAMAGES: \$150,000.00: *Smartt v. Brar*, 2024 CarswellAlta 2932, Alberta Court of Appeal.
- **Senses—Balance**—27 years old. Two motor vehicle collisions; broadside collision causing vertigo, soft tissue injuries to neck, shoulders, lower back, pain in head; vertigo developed into a serious problem, and eventually he required walking sticks to prevent himself from falling when moving around; ongoing soft tissue pain; struck from behind 9 months later, aggravating prior injuries; ongoing chronic pain, persistent postural perceptual dizziness, major depressive disorder with psychotic features; some of his testimony suggested that he may be suffering from delusions or psychosis; none of these conditions had shown improvement in the eight years since the collisions; Court of Appeal dismissed

plaintiff's appeal of the award for loss of future earning capacity. FUTURE LOSS OF EARNINGS: \$407,761.00. FUTURE CARE COSTS: \$20,355.00. GENERAL/NON-PECUNIARY DAMAGES: \$90,000.00: *Pickwell v. Rajwan*, 2025 CarswellBC 257, British Columbia Court of Appeal.

- **Psychological Injuries**—Nuisance, assault and battery, trespass by defendant, the plaintiffs' neighbour; pattern of overt provocation of plaintiffs; deliberately confrontational; assaulted plaintiff husband; nuisance including deliberate use of alarms, smoke, loud tools, phone ringer, to intentionally interfere with plaintiffs use and enjoyment of their property; trespassed on plaintiffs' property; high-handed, arrogant, malicious, deliberate course of conduct directed at plaintiffs over a period of years; ongoing litigation had not lessened defendant's behavior; defendant specifically targeted plaintiffs and their property; Court of appeal dismissed defendants appeal. GENERAL/NON-PECUNIARY DAMAGES: \$220,000.00 (including \$50,000 punitive and \$15,000 aggravated): *Gokey v. Usher*, 2024 CarswellBC 2953, British Columbia Court of Appeal.