

PLAINTIFF'S FORCED CAREER CHANGE RESULTS IN INCREASED REMUNERATION - THE COURT AWARDS \$100,000.00 FOR FUTURE LOSS OF EARNING CAPACITY. PROVIDE

Holman v. Leung 2021 BCSC 1168

The Reasons for Judgment of The Honourable Mr. Justice Veenstra were given on June 15, 2021 at Victoria, BC.

The plaintiff, Melissa Lee Holman, was 26 years old at the time of the collision and 30 years old at the time of trial. She seeks compensation for injuries she sustained in an accident that occurred on July 11, 2016. She was cycling on Yates Street in Victoria when, without warning, the defendants' vehicle cut in front of her and stopped suddenly, causing her to brake hard in order to avoid a collision. As a result, Ms. Holman vaulted over the handlebars of her bicycle and landed on the pavement. The defendants have admitted liability. The plaintiff alleges that the injuries she suffered in the accident required her to leave a job she loved and completely change her career trajectory, and that they continue to cause her pain, which is likely to continue on a permanent basis. The defendants argue that the plaintiff mostly recovered from her injuries by 2018 and that her claims of ongoing symptoms are exaggerated.

Prior to the collision the plaintiff had worked as a branch manager in a sales and marketing firm. She had a passion for fitness and participated in competitions. In 2015 she changed career paths and she began to work in a fitness studio in Victoria where she built her clientele as a personal trainer. As a result of the injuries she sustained in the collision she has not been able to return to the studio as a trainer. She now works in a government position as project coordinator for the Ministry of Social Development and Poverty Reduction.

DR. ALAN RICHARDSON, Orthopaedic Surgeon, identified the plaintiff's injuries as "a fracture of the right wrist carpal bone, ie., the trapezium; soft tissue injuries to the neck and upper back including probably the left parascapular muscles; and soft tissue injuries of the right hip". He testified that the plaintiff's prognosis is moderate, explaining that while he saw no need for surgery, the "patient would continue to be symptomatic"



The Court found that the plaintiff answered questions in a direct and thoughtful manner. Her evidence as to her symptoms was generally consistent with the medical evidence and that of the other lay witnesses. “As a result, despite the careful submissions advanced by the defendants, I found the plaintiff to be a credible witness.” Further, the Court accepted the evidence of the Plaintiff’s medical experts and rejected that of the defendants’ medical expert.

SUMMARY

Non-pecuniary damages	\$115,000.00
Past wage loss (as agreed)	\$8,406.00
Future loss of earning capacity	\$100,000.00
Cost of future care	\$100,400.00
Special damages	\$4,528.00
TOTAL	\$328,334.11

WRITTEN BY STELLA GOWANS, PARALEGAL

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