

FIREFIGHTER UNABLE TO RETURN TO FULL DUTIES IS AWARDED \$750,000.00 FOR LOSS OF FUTURE EARNING CAPACITY

M v. S 2021 BCSC 1411

The Reasons for Judgment of The Honourable Mr. Justice Walker were given on July 20, 2021 at Vancouver, BC.

The Plaintiff was injured in a rear end collision on March 5, 2017. He was 46 years old at the time of the collision and 50 years old at the time of trial. He sustained a mild traumatic brain injury, injuries to his neck, left shoulder, mid and low back, left wrist and headaches. He developed anxiety, depression and chronic pain.

At the time of the collision he was an experienced firefighter, having worked for the Vancouver Fire Department (VFD) for approximately 17 years. He loved his job and his colleagues were like a second family. He had career ambitions to become a ranking Lieutenant (he had achieved the designation of Acting Lieutenant) and eventually Captain. His occupation is very physically demanding. He was extremely fit and active in a number of sports including hockey, soccer, cycling, running and working out at the gym. After the collision he was off work for approximately 14 months. He was allowed to do a graduated return to work with light duties in the VFD's Fire Prevention Department, gradually returning to full-time hours. The position involves site inspections and computer work. Computer work was difficult, aggravating his neck pain and exacerbating his ongoing headaches. He disliked the position and pressed VFD to go back to fire suppression work. He returned to work as a firefighter in September 2019. He struggled to carry out his duties. He was not capable of performing his tasks on a sustained basis. In December 2020 Mr. M suffered a psychological breakdown that was, based on the medical evidence, a result of injuries sustained in the collision. Mr. M took a leave of absence and, at the time of trial, he had not returned to work.

DR. ANDREI KRASSIOUKOV, physiatrist, testified on behalf of the plaintiff. He opined that Mr. M has developed chronic myofascial pain and that his prognosis to return to work as a firefighter is guarded. He stated "Chronic pain may lead to prolonged physical suffering, marital problems, family problems,



loss of employment and various adverse medical reactions from long-term therapy... a number of these symptoms are present in Mr. M's case." ... "It is my opinion that Mr. M most likely will continue to have some level of pain in the affected areas for the foreseeable future.

DR. GORDON ROBINSON, Neurologist, also testified on behalf of the plaintiff. The Court noted that he is regarded as Canada's leading expert in the causes and treatment of headaches. He opined that Mr. M "probably will continue to have posttraumatic headache indefinitely."

MR. JUSTICE WALKER accepted the evidence of the experts who testified in Mr. M's case and accorded no weight to the majority of opinions expressed by Dr. Hawkeswood, for the defence. He rejected the defence submissions challenging the evidence of the experts who testified in Mr. M's case. He stated that he had no hesitation in finding that they carried out thorough assessments of Mr. M and provided objective opinion evidence.

SUMMARY

Non-pecuniary damages	\$210,000.00
Past wage loss	\$119,106.36
Future loss of earning capacity	\$750,000.00
Cost of future care	\$93,000.00
Special damages	\$23,787.67
TOTAL	\$1,195,894.03

The Court also requested further submissions concerning an appropriate award for management fees.

The full Reasons for Judgment of The Honourable Madam Justice A. Ramsay [CAN BE FOUND HERE:](#)

WRITTEN BY STELLA GOWANS, PARALEGAL

IF YOU WOULD LIKE TO BOOK AN ASSESSMENT WITH DR. ANDREI KRASSIOUKOV, PHYSIATRIST, OR DR. GORDON ROBINSON, NEUROLOGIST, PLEASE CONTACT US AT INTEGRA

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