

Publisher's Note

Release 102

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Gregory & Gregory

The Annotated British Columbia Insurance (Vehicle) Act

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.

What's New in this Update:

This release adds digests of fourteen recent decisions to the case law annotating s. 98 (Recovery for Loss of Income) of the *Insurance (Vehicle) Act*. This release also features three new memoranda in the Issues in Focus section.

Highlights

- **Insurance (Vehicle) Act — Part 6 — Vehicle Actions — S. 98 — Recovery for Loss of Income — Past Income Loss** — The 55-year-old plaintiff was a tractor-trailer driver with a Class 1 driver's license. If the accident had not occurred, he intended to remain employed as a truck

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driver. Following the accident, the plaintiff suffered from driving anxiety which had a significant effect, not only regarding driving long-haul for a living, but when driving locally in automobiles. He considered other possible lines of work and took a computer course and later enrolled in a hospitality event planning program. However, the wages he could earn from either of these were substantially less than his earnings as a truck driver. He returned to driving a truck part-time. However, he had difficulty finding steady employment since returning to work as a truck driver. The court awarded approximately two years net lost earnings amounting to \$100,000 for past loss of income: *Godbout v. Notter*, 2018 BCSC 1043, 2018 CarswellBC 1642 (B.C. S.C.).

- **Insurance (Vehicle) Act — Part 6 — Vehicle Actions — S. 98 — Recovery for Loss of Income — Homemakers** — The plaintiff was in her early 40s and a member of the Fort Simpson First Nation. The plaintiff had not worked outside the home since her children were born. She was passionate about pursuing her Aboriginal heritage through her carvings and crafts, but she did not demonstrate any pattern of earnings. There was evidence that someone offered to take one of the plaintiff's carvings in exchange for a \$40,000 credit against the purchase price of a house. There was other evidence that some of her carvings might have a value of \$20,000 or more. But that evidence was speculative at best and there was no hard evidence to show that the plaintiff sold, or could have sold her carvings at those prices. Aside from her activities as a carver and her production of small crafts, her skills and education were suited to employment in the service industry. The court accepted that she would find work of some kind in the future but that her claim for \$75,000 was too high and awarded \$40,000: *McGonigle v. Parada*, 2018 BCSC 1017, 2018 CarswellBC 1593 (B.C. S.C.).