

**Automobile Injury Appeal Commission
Province of Saskatchewan**

Citation: *M.W. v. Saskatchewan Government Insurance,*
2005 SKAIA 026
Date: 20050506
File: 018 of 2003

BETWEEN

M.W., Applicant

and

Saskatchewan Government Insurance, Respondent

Appearances:
Peter A. Abrametz, for the Applicant
Dale Brown, for the Respondent

Before: Ann Phillips, Q.C., Chair

**THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL AND HEALTH
INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND
OTHER IDENTIFYING INFORMATION.**

Heard at Prince Albert, Saskatchewan
April 26, 2004

DECISION

[1] M.W., the Appellant, appeals a decision of Saskatchewan Government Insurance (SGI) dated November 27, 2002. The decision followed an internal review of an earlier decision dated July 12, 2001 allowing permanent impairment benefits for scarring in the amount of \$5,460.87.

[2] The Appellant appealed on the grounds that the amounts which were paid for scarring in a motor vehicle accident on December 24, 1999 were inadequate.

FACTS

Left Leg Scarring

[3] SGI's medical consultant, Dr. P. Taillon, considered the scar on the Appellant's left leg by reviewing a photograph showing the scar and documentation prepared by Dr. Malherbe, the Appellant's physician, locating and measuring those scars that the Appellant told Dr. Malherbe were received in the motor vehicle accident.

[4] Dr. Malherbe indicates a scar on the Appellant's left leg of 100 mm. x 6 mm. The photograph, however, clearly shows a scar extending no more than 5 cm. as indicated by the measuring tape photographed beside the scar. Dr. Taillon noted scarring for the left leg as follows:

“Disfigurement/Scarring of other parts of the body
Regulations, Appendix B, Part 2, Division 3, Table 17

Length (cm)	Width (cm)	Surface Area (cm ²)	1.0% per cm ²
5.00 x	.30	1.50	1.50%

[5] The Appellant was not present for the appeal. His counsel at the opening of the appeal conceded that this aspect of the appeal was being abandoned.

[6] I agree. SGI's award of 1.50% permanent impairment benefit for the lower leg scar is appropriate under the Regulations.

Facial Scarring

[7] In the Appellant's application for benefits completed on January 18, 2000 (approximately 25 days after the accident) recorded scars on his face and hands. Photographs were taken May 10, 2000. These were filed as exhibits by SGI at the hearing.

[8] Before that time, they had been submitted to Dr. Taillon who commented:

“As you know it is impossible, from the lack of medical information, to determine which scars are the result of the motor vehicle accident... The photos show multiple scars on the face and hands, as well as on the leg. Indeed there is a very significant old scar across the upper lip that would conceivably have required medical attention. If indeed none of these lacerations were attended to and there was no suturing, then the best we could do is ask Dr. Wannenburg to individually measure both width and length of each scar that the claimant attributes to the motor vehicle accident. Once that document is obtained we can assess for permanent impairment due to scarring.”

[9] That request prompted the production by Dr. Malherbe, the Appellant's physician, of a document that shows six small scars on the left side of the Appellant's face as follows: 10 mm. x 2 mm.; 3 mm. x 2 mm.; 2 mm. x 1 mm.; 2 mm. x 1 mm.; 6 mm. x 1 mm.; 1 mm. x 1 mm.

[10] Dr. Taillon assessed these as Class III scars under Appendix B of *The Personal Injury Benefit Regulations*, Part 2, Division 2, Table 15. The total surface area was .43 cm.² and as they were flat scars, they were rated at 1% per cm.², giving a total permanent impairment rating for facial scars at 0.43%.

[11] On behalf of the Appellant, Mr. Abrametz argued that Table 15, under the heading Class III of physiognomy impairments (minor impairment), there are two choices, as follows:

Changes in the form and symmetry	Cicatricial Impairment	Max. Disfig.
Conspicuous change and: (a) affecting one anatomical element: 3% (b) affecting two anatomical elements: 4% (c) affecting more than two anatomical elements: 7%	Conspicuous Impairment and: (a) flat scar: 1% per cm. ² (b) faulty scar: 2% cm. ²	7%

[12] He referred to photographs showing a conspicuous scar beginning under the left (as shown in the photograph) nostril, running through the Appellant's moustache and ending through his lower lip. It is conspicuous despite the moustache. The second scar to which he referred is a slightly less conspicuous scar to the right (on shown in the photograph) of the Appellant's nose. Neither of these scars appears on Dr. Malherbe's sketch of the location and size of the scars on the Appellant's face nor on the Appellant's own application for benefits.

[13] Mr. Abrametz quite properly conceded that the remaining scars shown in the photographs were not changes in form and symmetry (indeed found it difficult to even identify many of the scars in the close-up photographs), so that they were very generously classed as "conspicuous impairment", as opposed to "conspicuous change".

[14] I therefore find that there is no evidence in which a different finding of fact than that made by Dr. Taillon and SGI could be made, with respect to the facial scarring as well as the leg scar.

[15] The hand scarring was not in issue on this appeal.

[16] The application is therefore dismissed.

Dated at Regina, Saskatchewan, on May 6, 2005.

Ann Phillips, Q.C., Chair