

Does Workers Comp Cover Injuries Workers Suffer While Driving to Work?



While specific rules vary by province, the essential basis of workers' comp is the same throughout Canada. Workers give up the right to sue their employer for job-related injuries in exchange for guaranteed benefits even if the injury was the worker's own fault. But there's a catch: The worker must suffer the injury in the course of their employment. Does an injury a worker sustains while travelling to or from work count as work-related for workers comp coverage purposes? Here's how a pair of appeals boards answered this question. Although both cases took place in Ontario, they're typical of how courts and arbitrators in other provinces and territories evaluate whether injuries suffered in vehicle accidents that occur while a worker is driving to or from work are work-related.

Vehicle Accident Injuries Are Work-Related

Let's start with a case where workers comp issued a coverage determination in the worker's favour.

Situation

An accountant visiting a client to perform an audit got into a traffic accident en route. The accountant was driving his own car and carrying an 'audit bag' that he took home the night before so he could go directly to the client's site without first stopping at his own office.

Ruling

The Ontario Workplace Safety and Insurance Appeals Tribunal (WSIAT) ruled that the injuries were 'compensable,' i.e., payable under workers comp because the accident took place in the course of the accountant's employment.

Reasoning

Workers aren't generally considered on the job when they travel to and from work. But the Tribunal cited 2 factors that made this particular case work-related:

The Travel Was Necessary for Business. The accountant wasn't simply driving to

work; he was going to a client's office to perform a job function; and

The Accountant Was Carrying an Audit Bag. The accountant had a bag full of papers necessary to do an audit. This showed that he was 'doing something for the employer's benefit' at the time of the accident.

(Mutual Insurance Co. v. Bell Canada) Decision No. 108/94, 1994 CanLII 7703

Vehicle Accident Injuries Are Not Work-Related

Here's a parallel case with a different outcome.

Situation

Two teachers got into a vehicle accident while driving in the school parking lot after work. Teacher 1 was driving to a student's home to discuss class work. Teacher 2 was driving home. Both suffered injuries and claimed workers comp benefits.

Ruling

The WSIAT accepted Teacher 1's claims but denied those of Teacher 2.

Reasoning

The Tribunal made the following determinations:

Teacher 1's Injuries Were Work-Related. Driving to a student's home to discuss class work is part of a teacher's job, the Tribunal explained in finding Teacher 1's injuries to be compensable.

Teacher 2's Injuries Weren't Work-Related. Unlike Teacher 1, Teacher 2 was simply driving home after work and not performing her job as a teacher. Once Teacher 2 got into her car 'she became part of the driving public and left the scope of the employment relationship,' the WSIAT reasoned.

McFadden v. Viti, Decision No. 733/87, 1988 CanLII 1947 (ON WSIAT)

Pop Quiz

Here's a twist to make another important point about workers comp coverage.

Situation

Assume that the reason the workers in the above scenarios got into their respective vehicle accidents because they were driving drunk.

Question

How, if at all, would that affect the outcome of the cases'

Answer

The fact that the workers drove drunk probably wouldn't disqualify them from receiving benefits if their injuries were otherwise work-related.

Explanation

Workers comp is a no-fault system that looks simply at whether an injury occurred in the course of employment and not at who was to blame for the injury. Example: Consider the recent case where a construction foreman pled guilty to drunk driving after crashing a company-owned vehicle carrying 2 other crew members as passengers. The incident occurred after work.

The WSIAT ruled that the accident occurred during the course of employment because the foreman's job required him to drive the vehicle to and from the worksite and awarded him workers comp benefits. The employer appealed but to no avail. The Ontario court concluded that the Tribunal's ruling was reasonable and in line with coverage rules and case law. Nor did the foreman's misconduct in driving drunk disqualify him from receiving workers comp benefits for the work-related serious impairment he suffered.

Interpaving Limited v. Workplace Safety and Insurance Appeals Tribunal, 2023 ONSC 5162 (CanLII)