

Case Name:
Kumar v. Coachman Co.

Baljit Kumar
v.
Coachman Insurance Company and Financial Services Commission of
Ontario

[2005] S.C.C.A. No. 195
File No.: 30721

Supreme Court of Canada

Record created: April 26, 2005.
Record updated: August 25, 2005.

Appeal From:

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Status:

Application for leave to appeal dismissed with costs (without reasons) August 25, 2005.

Catchwords:

Statutes — Interpretation — Meaning of "accident" within s. 2(1) of the Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996, O.Reg. 462/96, 505/96, 551/96 and 303/98 — Whether Court of Appeal erred in refusing leave to appeal.

Case Summary:

Baljit Kumar, a taxicab driver, was assaulted by a passenger as part of an attempted robbery, following which his taxicab rolled into a ditch. Mr. Kumar applied for statutory benefits payable under the Statutory Accident Benefits Schedule - Accidents on or after November 1, 1996, O.Reg. 403/96, as amended. Coachman Insurance Company, denied payment of the statutory benefits on the basis that he was not involved in, and his injuries did not result from, an "accident" within the meaning of s. 2(1) of the Schedule. An arbitrator appointed by the Financial Services Commission of Ontario ("FSCO") found in favour of the insurer. The decision of the Arbitrator was confirmed on appeal by the FSCO Director's Delegate. Both decisions were upheld on judicial review by the Ontario Superior Court of Justice (Divisional Court). Leave to appeal was refused by the Ontario Court of Appeal.

Counsel:

Ravinder P. Sawhney, for the motion.

Eric K. Grossman (Zarek, Taylor, Grossman, Hanraham), contra.

Chronology:

1. Application for leave to appeal:

FILED: April 26, 2005. S.C.C. Bulletin, 2005, p. 692.

2. Motion to extend the time in which to file and serve the application for leave granted May 11, 2005. Before: Binnie J. S.C.C. Bulletin, 2005, p. 754.

UPON APPLICATION by the applicant for an order, pursuant to Rule 64, extending the time to serve and file an application for leave to appeal to May 5, 2005;
AND HAVING READ the material filed;
IT IS HEREBY ORDERED THAT:

The motion to extend the time to serve and file an application for leave to appeal to May 5, 2005 is granted. The respondents shall serve and file their responses within 30 days from this Order.

3. Application for leave to appeal:

SUBMITTED TO THE COURT: July 11, 2005. S.C.C. Bulletin, 2005, p. 986.

DISMISSED WITH COSTS: August 25, 2005 (without reasons).
S.C.C. Bulletin, 2005, p. 115.

Before: Major, Fish and Abella JJ.

The application for leave to appeal is dismissed with costs to the respondent Coachman Insurance Company.

Procedural History:

Judgment at first instance: Applicant found not to have been injured in an "accident" as defined by the Statutory Accident Benefit Schedule -- Accidents on or after November 1, 1996.
Financial Services Commission of Ontario,
Sandomirsky, Arbitrator, April 27, 2001.

Judgment at first instance: Applicant's appeal, dismissed. Financial Services Commission of Ontario, Makepeace, Director's Delegate, August 9, 2002.

Judgment at first instance: Applicant's applications for judicial review, dismissed.
Ontario Superior Court of Justice (Divisional Court),
MacFarland, Howden and Linhares De Sousa JJ., June 3,
2004.
[2004] O.J. No. 2494.

Judgment on appeal: Applicant's application for leave to appeal, dismissed.
Ontario Court of Appeal, Weiler, Sharpe and Blair
JJ.A., October 26, 2004.
[2004] O.J. No. 4421

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