Manitoba

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellants]
AICAC File No.: AC-04-93

PANEL:	**Ms Laura Diamond**
APPEARANCES:	**The Appellants, [text deleted], appeared on their own behalf; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Danielle Robinson.**
HEARING DATE:	**December 5, 2006**
ISSUE(S):	**1. Entitlement to payment for pain and suffering, lost wages for parents, reimbursement for victim's personal belongings and education and travel expenses for the family;** **2. Entitlement to greater non-dependent Lump Sum Indemnity payment; and** **3. Entitlement to greater coverage for funeral expenses.**
RELEVANT SECTIONS:	**Sections 123 and 124 of *The Manitoba Public Insurance Corporation Act ('MPIC Act')***

AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE APPELLANT'S PRIVACY AND TO KEEP PERSONAL INFORMATION CONFIDENTIAL. REFERENCES TO THE APPELLANT'S PERSONAL HEALTH INFORMATION AND OTHER PERSONAL IDENTIFYING INFORMATION HAVE BEEN REMOVED.

Reasons For Decision

The Appellants, [text deleted], appealed as parents of [the Deceased], who lost her life in a tragic motor vehicle accident on December 9, 2003.

As a result of their loss, the Appellants received the maximum parental lump sum indemnity benefit of $10,695 each. Funeral expenses in the amount of $6,413.49 were paid directly to [text deleted].

The parents also requested payment for pain and suffering, lost wages for parents, reimbursement for [the Deceased's] personal belongings and education, and travel expenses for her family.

The Appellants' case manager issued decisions on January 5, 2004 and March 24, 2004 denying payment for these claims.

The parents sought internal review of this decision. On March 29, 2004, an Internal Review Officer for MPIC issued a decision upholding the case manager's letter and denying funding for these items because they were outside the limits of what is allowed under the MPIC Act and Regulations.

It is from this decision of the Internal Review Officer that the parents have now appealed.

A hearing was held into this appeal on December 5, 2006. The Appellants indicated that reimbursement for their daughter's personal belongings damaged in the accident was no longer an issue, as they had received payment for these amounts from MPIC.

The Appellants also advised that they were no longer seeking payment for pain and suffering, lost wages for the parents, or travel expenses for the family. As well, they were not pursuing any further entitlement to non-dependant lump sum indemnity payment or greater coverage for

funeral expenses. However, the Appellants were seeking compensation for the private school and post-secondary education fees they had expended for their daughter. They indicated that when they paid for their daughter's private school education from Grade 7 through 12 at [text deleted], as well as for her four (4) year Bachelor of [text deleted] Program, they expected to be able to see their daughter become a productive citizen and adult, something they never had the opportunity to do, as their daughter was three (3) months short of finishing her [text deleted] degree at the time of the accident.

The Appellants submitted that just as they received reimbursement for the loss of their daughter's property, the education that they paid for was a property and a loss to the family which should also be reimbursed.

Counsel for MPIC submitted that the MPIC Act is like a contract of insurance. This coverage is a creature of statute and for a benefit to be given, a basis for it must be found in the legislation. She submitted that there was no provision in the statute for education expenses such as these to be reimbursed.

Counsel for MPIC distinguished [the Appellants'] example of reimbursement for the victim's personal belongings, which have been dealt with differently by MPIC. There is no provision for the reimbursement of education expenses of this kind, and so, she submitted that the appeal ought to be dismissed.

Discussion

The MPIC Act provides, in Division 3, for death benefits. Section 123 provides a lump sum indemnity benefit for parents of a deceased victim:

Entitlement of child and parent of deceased victim

123 Where a deceased victim has no dependant on the day he or she dies, each child and parent of the deceased victim, although not a dependant of the deceased victim, is entitled to a lump sum indemnity of $5,000.

Section 124 provides for the reimbursement of funeral expenses:

Reimbursement of funeral expenses

124 The corporation shall reimburse the estate of a deceased victim for the actual cost of funeral expenses, including the cost of any grave marker, to a maximum of $6,000.

The Commission is bound by the provisions of the statute and we agree with counsel for MPIC that there are no further provisions in the Act or Regulations which would apply to the Appellants to provide them with reimbursement for their daughter's educational expenses. The Commission finds that educational expenses incurred on behalf of the deceased are not a reimbursable expense under the statute. Accordingly, the Commission cannot find in favour of the Appellants on this argument. The Commission therefore confirms the Internal Review Officer's decision of March 29, 2004 and the appeal is hereby dismissed.

Dated at Winnipeg this 18th day of December, 2006.

LAURA DIAMOND