

LAT supports denial of benefits on the basis that death was not a result of an accident as defined by the SABS

Does INCIDENT equal ACCIDENT?

Was the incident an accident pursuant to section 3(1) of the SABS? In particular, did MG die as a result of the motor vehicle accident?

Applications were brought by the wife and two sons as a result of MG's death. The insurer denied benefits on the basis that the death was not caused by the accident as defined by the SABS.

RESULT: Adjudicator, Robert Watt, found that MG's death was not caused by the accident, and the Applicants were therefore not entitled to death and/or funeral benefits pursuant to the SABS.

Section 26 of the SABS requires the insurer to pay a death benefit in respect of an insured person, if he or she dies as a result of an accident.

Section 3(1) of the SABS defines accident as an incident in which the *use or operation of an automobile directly causes an impairment...* (emphasis added).

The Applicants submitted that the accident triggered the death of MG by adding stress to MG's current medical problems, resulting in his death.

The Respondent's position was that the accident did not cause MG's death. MG would have suffered from a cardiac event independent of the accident because of his medical history.

The adjudicator referenced the recent Divisional Court decision in *Sabadash v. State Farm*, applying the "but for" to determine causation. There was no dispute that the accident occurred from the ordinary use of the vehicle. The issue that remained was whether the operation of the vehicle was a direct cause of MG's injuries (death).

The subject accident was a low-impact event with minimal damage. MG was released from Hospital the same day.

The adjudicator in his decision outlined MG's pre-accident medical history of Diabetes and Hypertension, as well as a diagnosis of Supraventricular Tachycardia (SVT). Further, the adjudicator made note that MG saw his doctor on May 9, 2016, who prescribed Losartan for elevated blood pressure and Bisoprolol to control his blood pressure. MG did not accept the suggested medical treatment recommended by his doctor.

On June 1, 2017, three days after the subject accident, MG was not feeling well and fell on the way to the washroom. No specific details were provided by MG surrounding the fall, but imaging for the first time showed a bleed in the right thalamus. MG was admitted to the ICU for blood pressure control. On June 5, 2017, MG did not feel well and had difficulty breathing. He was placed on a non-rebreather mask with 100% oxygen. His blood pressure dipped. He had a bradycardiac arrest and was put on life support measures but was pronounced dead that day. The Coroner's Report noted the cause of death as pulmonary thromboemboli as a consequence of bilateral deep vein thrombosis due to recent immobility because of an acute hemorrhage in the right thalamus.

Dr. Sharma in her Death Determination Opinion dated October 18, 2017, was of the opinion that the cause of death was due to MG's right thalamic bleed and that the cause of death was directly related to his condition of poorly controlled hypertension.

The adjudicator found that MG's death was a result of his pre-accident medical issues and the bleeding which occurred from the fall on June 1, 2017; not as a result of the subject accident which took place on May 28, 2017. There was not enough evidence to support the claim that MG's death was a result of the stress of the accident.

Find the full decisions at

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