



**Citation: [S.R.] v. Royal & Sun Alliance Insurance Company of Canada, 2023  
ONLAT 20-002247/AABS-PI**

**Licence Appeal Tribunal File Number: 20-002247/AABS**

In the matter of an Application pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8, in relation to statutory accident benefits.

Between:

**[SR]  
(By their litigation guardian, [SR])**

**Applicant**

and

**Royal & Sun Alliance Insurance Company of Canada**

**Respondent**

**PRELIMINARY ISSUE HEARING DECISION AND ORDER**

**ADJUDICATOR:** Tavlín Kaur

**APPEARANCES:**

For the Applicant: [SR], Applicant's Family Member  
Gordon Harris, Counsel

For the Respondent: Pamela Vlastic, Counsel

**HEARD:** By way of written submissions

## OVERVIEW

- [1] On April 25, 2019, the applicant's mother was in her wheelchair in front of her residence. She was being loaded into a wheelchair accessible taxi. The wheelchair rolled out of the taxi and the applicant's mother struck her head on the pavement. The applicant was standing at the door of the apartment and saw the incident. The applicant's mother was diagnosed with a brain bleed. She initially recovered, but then relapsed. She sadly succumbed to her injuries.
- [2] The applicant sought benefits for himself pursuant to the *Statutory Accident Benefits Schedule – Effective September 1, 2010*, [O. Reg. 34/10](#) (the "*Schedule*"), because he suffered psychological injuries as a result of the incident. The applicant was denied certain benefits by the respondent, Royal Sun Alliance Insurance Company of Canada ("RSA") and submitted an application to the Licence Appeal Tribunal – Automobile Accident Benefits Services (the "Tribunal").

## PRELIMINARY ISSUE IN DISPUTE

- [3] The preliminary issue to be decided is whether the applicant is an insured person according to the definition in section 3(1)(a)(ii) of the *Schedule*.
- [4] The question that is before the Tribunal is a very narrow one. However, it should be noted that the applicant raised an additional issue in his submissions regarding whether the applicant was involved in an accident. The respondent has also made submissions regarding the other subsections in section 3(1) of the *Schedule*.
- [5] In my view, these issues are not properly before the Tribunal. Neither party has filed motions to add these issues in dispute to this proceeding. As such, the Tribunal will not consider these issues and will focus its analysis on the issue that has been outlined in the case conference report and order as well as the motion order dated May 24, 2023.

## RESULT

- [6] I find that the applicant does not meet the definition of an "insured person" as defined in section 3(1)(a)(ii) of the *Schedule*.

## ANALYSIS

- [7] The [Schedule](#) provides that insurers are liable to pay certain benefits to, or on behalf of, an insured person who sustained an impairment as a result of an accident involving the use or operation of an automobile.
- [8] Under s. 3(1) of the, an “insured person” means, in respect of a particular motor vehicle liability policy,
- (a) the named insured, any person specified in the policy as a driver of the insured automobile and, if the named insured is an individual, the spouse of the named insured and a dependant of the named insured or of his or her spouse,
    - (i) if the named insured, specified driver, spouse or dependant is involved in an accident in or outside Ontario that involves the insured automobile or another automobile, or
    - (ii) if the named insured, specified driver, spouse or dependant is not involved in an accident but suffers psychological or mental injury as a result of an accident in or outside Ontario that results in a physical injury to his or her spouse, child, grandchild, parent, grandparent, brother, sister, dependant or spouse’s dependant,
  - (b) a person who is involved in an accident involving the insured automobile, if the accident occurs in Ontario, or
  - (c) a person who is an occupant of the insured automobile and who is a resident of Ontario or was a resident of Ontario at any time during the 60 days before the accident if the accident occurs outside Ontario.
- [9] For the following reasons, I find that the applicant is not an “insured person” and therefore he may not claim accident benefits as a result of this incident.

### ***Parties’ positions***

- [10] The applicant submits that he is an “insured person” in accordance with section 3(1)(a)(ii) because he suffered “psychological injuries as a result of an immediate family member who was involved in an accident. The respondent submits that the applicant is not an insured person as defined by the *Schedule*.
- [11] Both parties acknowledge that neither the applicant or his mother had a vehicle or automobile insurance of their own. The applicant is seeking benefits from the

respondent, who provides insurance coverage to the taxi company involved in this incident.

- [12] Given the facts before me, I find that the applicant does not qualify under section 3(1)(a)(ii) because his mother is not a named insured person, he is not the named insured person, and nor is he a dependant of the named insured person. The applicant argues that he should be considered as an insured person, but has not submitted any jurisprudence that supports his position. His submissions do not address how he meets the definition that has been set out in section 3(1)(a)(ii) of the *Schedule*.
- [13] It is a basic principle of statutory interpretation that every word that is found in a statute has been included there for a reason, and is intended to have a purpose. The legislature specifically narrowed the definition of an insured person. This must be taken as intentional. I find Adjudicator Norris' reasoning in his reconsideration decision *in Amiri and Mireskandari v. The Co-operators*, 2021 ONLAT 20-003296/AABS, [2021 CanLII 90414](#) (ON LAT) to be quite instructive on this point. In paragraph 16, he states that, "The purpose of definition (a)(ii) of **"insured person"** is to address, and limit, claims like those made by the Applicants to the **named insured, a specified driver, or family members of the named insured**. [my emphasis added]."
- [14] While I recognize that the applicant has been put in a difficult situation given the loss of his mother, I must respect the legislature's intent. As noted by the Tribunal in *18-001020 v Wawanesa Mutual Insurance Company*, [2018 CanLII 83527](#) (ON LAT), a plain reading of the *Schedule* makes it clear that, while it is established that the *Schedule* is consumer protection legislation, the legislature specifically opted to provide an entitlement to benefits to some and not to others.

## ORDER

- [15] I find that he is not an "insured person" as defined under subsection 3(1)(a)(ii) the *Schedule*.
- [16] The application is dismissed.

**Released: August 28, 2023**

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**Tavlin Kaur  
Adjudicator**