

**Section B Benefits Payable to Some Workers Compensation Eligible Claimants in PEI**

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**IN THIS ISSUE**

- SYNOPSIS
- ISSUE
- ANALYSIS
- DECISION
- TAKEAWAYS

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*Field v Aviva Insurance Company, 2024 PESC 8.*

Though it reads as a clarification of the operation of a statute, the Supreme Court of Prince Edward Island’s recent decision in *Field v Aviva Insurance Company* carries with it the potential to impact auto insurance throughout the province. Those most directly affected are insurers and workers injured in the course of employment when the accident involves a motor vehicle. The outcome of this decision is unique to PEI.

The court held that the plaintiff, Mr. Field, was entitled to Section B benefits even though he was entitled to claim compensation under the *Workers Compensation Act* (“WCA”).

**Synopsis**

Mr. Field was injured in a motor vehicle accident that occurred while Mr. Field was acting in the course of his employment. Mr. Field’s employer was insured by the Defendant, Aviva Insurance Company, and at the time of the accident, Mr. Field was an insured under that policy. The accident involved the use of a motor vehicle and occurred in the course of Mr. Field’s employment. Therefore, the WCA and the *Insurance Act* (specifically “Section B”) were automatically engaged.

**Issue**

Is a worker who was injured in an accident involving a motor vehicle and has elected to commence a civil action entitled to claim Section B benefits?

**Analysis**

Resolving the issue required an analysis of the interaction between the two statutes, and specifically, the interaction of exceptions and exclusions clauses in each statute. The relevant concepts are:

	SECTION B	WORKERS COMPENSATION
Rule	Section B is payable to an insured person when an accident involving a motor vehicle occurs. (Sched. B, <i>Insurance Act</i> )	Workers compensation is payable to a worker when the worker is injured in the course of employment. (s. 6, WCA)
Exception	IF a person is entitled to receive “benefits under any worker’s compensation law or plan,” THEN Section B is not payable. (ss. 3(3)(a)(ii), Sched. B, <i>Insurance Act</i> )	IF the worker is injured in an accident and, as a result, the worker is entitled to commence an action against a person other than the employer or another employee of the same employer, THEN the worker has a choice to claim the compensation under the WCA, or to bring an action. (s. 11(1), WCA)

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The court was concerned specifically with the implications of the Section B exception (above) and accidents that meet the workers compensation exception (above) *and* involved the use of a motor vehicle. In such a scenario, s. 11(5) of the *WCA* is also engaged.

Section 11(5) states that when an accident meeting the exception in the *WCA* occurs, *and* the accident involved the use of a motor vehicle, then, for the purposes of the *Insurance Act* and any other contract of insurance in effect at the time of the accident, the injured worker is deemed not to be entitled to compensation under the *WCA*.

## Decision

- The court considered the submissions of the parties, interpreted the meaning and purpose of the legislation, ultimately concluding that there is no genuine ambiguity arising from interpreting s. 11(5) of the *WCA*, and that the deeming provision in it has the effect of making the Section B exclusion inapplicable.
- The court was mindful that this outcome would be unique to Prince Edward Island, but also noted that such an outcome is reflective of the choices of the legislature, that this “is not the first time that the Legislature has made a choice unique to Prince Edward Island,” and ultimately, that “the court must respect the drafting choices made by the Legislature.”
- Field is therefore entitled to Section B benefits.

## Takeaways

- The court’s decision concerns a worker that elected to commence an action, pursuant to section 11(1) and 11(5) of the *WCA*. In that instance, the court determined Section B is payable in PEI.
- The language in the *WCA*, and the logic applied by the court in interpreting it, leaves a curious situation. If the worker elects to claim the compensation under the *WCA*, there is room to argue that the worker is also entitled to Section B. Though the court seems to foreclose such an outcome, (at ¶47-50, 53) this was not the specific question the court was asked to decide.

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