

**The Québec Court of Appeal revisits the scope of application of the no-fault insurance system pertaining to automobile accidents**

<b>Reported case</b>	Rossy v. Westmount (City of)
<b>Citation</b>	2010 QCCA 2131
<b>The Court</b>	Quebec Court of Appeal
<b>At issue</b>	<p>Whether or not the Québec no-fault system of automobile insurance should apply instead of the usual civil tort regime?</p> <p>More specifically, the Québec Court of Appeal had to determine the extent of an automobile's involvement to apply the no-fault system rather than the usual civil tort regime.</p>
<b>Factual Summary</b>	<p>Plaintiffs are claiming for the death of a family member caused by the collapse of a tree owned by the defendant. Plaintiffs alleged that not only was the defendant to be held liable for not properly maintaining its property, but that the Québec no-fault system of automobile insurance should not apply since the accident was totally independent from the use of the automobile in which the deceased was at the time the tree collapsed on it.</p> <p>The defendant argued the plaintiffs' case had to be dismissed on the basis that the damages claimed were related and had been caused by the use of an automobile. Hence, the no-fault system should apply, as it had in the past in similar circumstances.</p>
<b>Decision</b>	<p>Albeit a determination to be decided on the fact pattern of each case, the Court revisited a great deal of the case law on the issue of whether or not an automobile in each specific case had been the cause of the accident or simply its context. The Court noted the issue usually revolves around whether or not there is a causal link between the accident and the use of an automobile, in as much as, the simple fact of being in an automobile does not suffice to put aside the usual civil tort regime.</p> <p>Although the Court agreed with the case law applying the no-fault system when victims were either getting into or out of an automobile, it dismissed the no-fault system in this case on the basis that the deceased could have been injured as severely by the tree in issue in many other situations such as on foot, on rollerblades, on a bicycle, etc.</p> <p>In the opinion of the Court, the automobile in this case had only been the context or opportunity for the damages to occur and not its cause. By way of consequence, plaintiffs can continue their suit against the defendant on the basis of the civil tort regime, without the latter being able to benefit from the no-fault insurance system.</p>