
Settlement with tortfeasors irrelevant to Section B payment obligations

Reported Case:	<i>Humprey v. Portage La Prairie Mutual Insurance</i>
Citation:	2009 NSSC 153
At Issue:	Do settlement monies obtained from the tortfeasor reduce the insured's Section B claim?
The Court:	Supreme Court of Nova Scotia
Judgment Rendered:	May 6, 2009
Factual Summary:	The insured was involved in a motor vehicle accident and sued those responsible for damages she suffered. Her claim against the tortfeasors was settled. She also brought an action against her insurer, for its failure to pay her no-fault benefits pursuant to Section B of the automobile insurance policy. The insurer alleged that it had paid all medical and rehabilitation benefits the insured was entitled to, and denied that she qualified for loss of income benefits. The insurer then requested from the insured the particulars of her settlement with the tortfeasors, including any credit given for Section B coverage and amounts paid with respect to loss of income. The insured denied, on the basis that this information was irrelevant. The insurer brought a motion for production of this information.
Disposition:	The motion was dismissed with costs. Section B benefits paid or available to an insured are relevant to the extent of the liability of a third party and his or her insurer. The payments available or received by an insured from a third party are not relevant to the extent of the liability of a Section B insurer.

See: <http://www.canlii.org/en/ns/nssc/doc/2009/2009nssc153/2009nssc153.html>