
Spousal Support - Not Just Child Support - Required To Trigger Death Benefit For Former Spouse Under Manitoba Public Insurance Act

Reported Case:	Dupuis v. Manitoba Public Insurance Corp.
Citation:	2007 MBCA 53
At Issue:	Does a divorced spouse constitute a “dependent” entitled to receive a death benefit within the meaning of s. 70(1) of the <i>Manitoba Public Insurance Act</i> ?
The Court:	Manitoba Court of Appeal
Judgment Rendered:	May 9, 2007
Factual Summary:	Woman and her husband had previously divorced; woman was receiving child support from her husband for the children, but was not receiving an award of spousal support. Husband was killed in a motor vehicle accident, and the woman (ex-wife) argued she was a dependent within the meaning of the mandatory provincial insurance legislation entitled to receive a death benefit.
Disposition By Lower Court:	Automobile Injury Compensation Appeal Commission determined the (ex-) wife was a dependent within the meaning of the legislation as she was entitled to court-ordered child support. The term “support” has not been qualified in the legislation as either child support or spousal support, and there is no further definition in the regulations under the legislation.
Appellate Decision:	The legislation defined dependent as a person whose marriage to the victim has been dissolved by final divorce judgment and who, at the time of the accident, is entitled to receive support from the victim under a judgment or agreement. The Commission interpreted the legislation too broadly. The term “support” should be tied to the recipient (the person whose marriage was dissolved by divorce or annulment). Other elements of the definition of dependent refer to children of the victim, but do not require a pre-existing court-ordered support obligation. Although the order indicated that support was payable to the ex-wife, the payment of the support was not for the wife, but for the children. The funds were due to the ex-wife in her capacity as mother or guardian of the children, and she was not a dependent within the meaning of the insurance legislation. Appeal allowed.