

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an appeal by [the Appellant]
AICAC File No.: AC-96-8**

PANEL: Mr. Charles T. Birt, Q.C., Chairperson
Mrs. Lila Goodspeed
Mr. F. Les Cox

APPEARANCES: Manitoba Public Insurance Corporation ('M.P.I.C.')
represented by Mr. Ted Letkemann
[Text deleted], the Appellant, appeared in person

HEARING DATE: May 13th, 1996

ISSUE(S): Entitlement to reimbursement of expenses for real economic loss related to personal time, mileage and maintenance costs for travel to M.P.I.C. and costs for registered mail.

RELEVANT SECTIONS: 136(1) of the M.P.I.C. Act and 23(1)(a) through (c) and 23(2) of Regulation 40/94

AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE APPELLANT'S PRIVACY AND TO KEEP PERSONAL INFORMATION CONFIDENTIAL. REFERENCES TO THE APPELLANT'S PERSONAL HEALTH INFORMATION AND OTHER PERSONAL IDENTIFYING INFORMATION HAVE BEEN REMOVED.

REASONS FOR DECISION

THE FACTS:

The Appellant submitted a Notice of Appeal to the Commission on February 21st, 1996. However, there was no written decision by M.P.I.C.'s Internal Review Office on the issues

raised on appeal. The Commission's jurisdiction flows from Section 174 of the Act that states that a claimant may, within 90 days after receiving notice of a review decision by the corporation, appeal the review decision to the Commission. Both parties were contacted by the Commission about the missing decision and they both agreed that the Appellant had raised the issues verbally at a hearing and the Review Officer had responded to them but had not put his answers into writing. It was agreed by both parties that rather than refer the matter back to M.P.I.C., the Review Officer would put his answers in writing and this would be the basis for the appeal. To this end the Commission received the Internal Review Officer's decision dated March 8th, 1996.

The Appellant's claim is based on the fact that M.P.I.C. lost or misplaced his file and he wants compensation for the following:

1. cost of time, travel and economic loss in bringing an additional copy of material to M.P.I.C. for the Internal Review;
2. extra gas used to warm up the car before making that trip to M.P.I.C.;
3. maintenance on the car;
4. reimbursement for cost of a registered letter;
5. an investigation regarding the handling of [the Appellant's] files at M.P.I.C.;
6. interest on late payment.

The Appellant was invited to point out where these items qualify for reimbursement under the Act and Regulations. He replied that he was aware that the Act did not address these points however he wanted the Commission to rule that the Act did not go far enough in providing for payment of these types of expenses. He also stated that he had appealed

this matter in order to get the Commission's point of view so that he could proceed further with this claim.

THE LAW:

A victim is entitled to be reimbursed for any expenses that occur as a result of an automobile accident to the extent that those expenses qualify under the terms of the Act. The relevant section of the Act reads, as part, as follows:

“Reimbursement of victim for various expenses

136(1) Subject to the regulations, the victim is entitled, to the extent that he or she is not entitled to reimbursement under The Health Service Insurance Act or any other Act, to the reimbursement of expenses incurred by the victim because of the accident for any of the following: medical and paramedical care, transportation, lodging, prostheses, et cetera, cleaning or repair or replacement of damaged clothing and “(d) such other expenses as may be prescribed by regulation.”

The relevant regulation in Regulation 40/94 entitled “Reimbursement of Expenses (Universal Bodily Injury Compensation) Regulation” which reads in part, as:

“Private vehicle

23(1) The corporation shall pay an expense incurred by a victim for transportation by private vehicle if

- (a) transportation on a common carrier is not reasonably possible because of the state of health of the victim;
- (b) transportation is less expensive by private vehicle than by common carrier; or
- (c) a common carrier is not available for the route to be travelled.

Private vehicle used in other circumstances

23(2) Where a private vehicle is used in circumstances other than those referred to in

clauses (1)(a) to (c), the corporation shall pay the expense incurred by the victim to the extent that it does not exceed \$0.11 per km travelled.”

It is clear that the language of Section 136(1) is directed towards the payment of monies, actually disbursed by the claimant, in relation to those expenses listed in this section of the Regulation. All the direct expenses would, if proven, properly be the subject of claims for compensation to be paid to the Appellant. Maintenance costs, gas to warm up the car and personal time to travel back and forth to M.P.I.C., and the cost of registered letters and real economic loss are not compensable under the Act.

The M.P.I.C. Act is in effect an insurance policy covering persons injured in motor vehicle accidents in Manitoba. Like all insurance policies it does not insure against every possible kind of loss but only for those losses described in the Act and Regulations.

In regard to “ruling on the Act not going far enough” the jurisdiction of this Commission is only to interpret and apply the Act and Regulations as we find them. We cannot override the statute by substituting different views for those of the legislators nor in this instance do we choose to.

As well, the Appellant asked for an enquiry into the operations of M.P.I.C. on why his file was lost. Neither the statute nor the regulations gives the Commission any authority to deal with this matter or order M.P.I.C. to conduct a review on the matter.

DISPOSITION:

After careful review of the facts on the pertinent sections of the Act and Regulations we find that there is no provision in the governing legislation for reimbursement of the expenses claimed by the Appellant. Accordingly we confirm the decision of the Internal Review Officer and dismiss the appeal of the Appellant.

Dated at Winnipeg this 28th day of May 1996.

CHARLES T. BIRT, Q.C.

LILA GOODSPEED

F. LES COX