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# Newsletter

## Insurance Law

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### The Supreme Court shuts the door on civil suits for bodily injury caused in a road accident

In Quebec, the *Automobile Insurance Act*<sup>1</sup> (“AIA”) establishes a compensation scheme that is favourable to road accident victims in that the *Société de l’assurance automobile du Québec* (“SAAQ”) is solely responsible for compensating all victims of bodily injury or property damage resulting from a road accident, irrespective of fault.

The legislator has provided for a generous application of this scheme, in that the notion of automobile accident arising from the AIA is broader than its ordinary meaning might suggest and in which “any damage caused by an automobile, by the use thereof or by the load carried in or on an automobile, including damage caused by a trailer used with an automobile”<sup>2</sup> is compensable.

This characterization is important since, in the case of an accident caused by an automobile, section 83.57 of the AIA renders inadmissible any civil action seeking damages to compensate the resulting bodily injury, given that any such indemnity falls within the exclusive domain of the SAAQ.

On several occasions and once again in the recent *Godbout*<sup>3</sup> decision, the courts have had to rule on the causal link required in order to determine if an automobile accident within the meaning of the AIA exists. Deviating from the traditional approach to civil liability, the courts tend to favor a broad and liberal interpretation, encouraging the exclusive application of the AIA.

### The decision of the Supreme Court of Canada in *Godbout v. Pagé*

As such, the Supreme Court rendered a long-awaited decision on March 24 of this year. In this case, the victims were seriously injured in automobile accidents. After being fully compensated by the SAAQ, they filed civil claims for damages against third parties, alleging that they had committed subsequent faults that caused them aggravated or separate bodily injury. In the case of the first victim, the proceedings had been instituted against the medical staff who treated the injuries she had suffered following the accident. As for the second victim, his action was directed against the Attorney General of Quebec and was based on the alleged negligence of the *Sûreté du Québec* officers in their search for the crashed vehicle he was in. In short, both argued that the alleged subsequent faults gave rise to additional compensation, beyond the indemnity already paid by the SAAQ.

The question before the Court was therefore whether the subsequent damage alleged by the victims was caused in an automobile accident within the meaning of the AIA, in such a way that the civil suits undertaken by said victims were inadmissible. The Supreme Court replied in the affirmative to this question by a majority of its justices. Only Justice Côté, a native of Quebec, dissenting.

In support of its conclusion, the highest court in the land recalls that the AIA’s no-fault public automobile insurance scheme is the result of a social compromise whereby the legislator intended to simplify, accelerate and guarantee the compensation of as many road accident victims as possible, thus avoiding the uncertainties of judicial proceedings, of which the outcomes are always unpredictable.

Recalling also that the requirements regarding the causal link in the context of the AIA are less stringent than those relating to general civil liability, the Supreme Court confirms that, for the purposes of the scheme, it is enough to establish a sufficiently close link between the injury and the automobile accident:

*[t]he language of the Act [...] ultimately leads to the conclusion that, provided that there is a plausible, logical and sufficiently close link between, on the one hand, the automobile*

*accident and the subsequent events (in the context of these appeals, the fault of a third party) and, on the other hand, the resulting injury, the Act will cover the whole of the injury. Thus, the fact that the injury in question has an “aggravated” or “separate” aspect that can be attributed to events that occurred subsequently to the automobile accident is immaterial: those events will be deemed to be part of the accident, and therefore of the cause of the whole of the injury.<sup>4</sup>*

According to the majority of the Court, only such a broad and liberal approach permits the attainment of the objective of the AIA.

In so doing, the Supreme Court finds that the injury claimed by the victims stems from a series of related events, the starting point of which is the automobile accident that they respectively suffered. Considering that this causal link required under the AIA was established, the victims could not bring a civil action against the medical team or the *Sûreté du Québec* officers in the hopes of obtaining additional or complementary compensation, exceeding what was provided by the AIA.

Although the application of the AIA is “a question of logic and fact, and depends on the circumstances of each case”<sup>5</sup>, this decision reinforces the broad spectrum of the concept of automobile accident within the meaning of the AIA, which provides for a scheme that essentially remains the only path toward compensation.

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1. CQLR c. A-25.
  2. Article 1 of the AIA.
  3. *Godbout v. Pagé*, 2017 SCC 18.
  4. Paragraph 49 of the decision.
  5. Paragraph 28 of the decision.

The content of this newsletter is intended to provide general commentary only and should not be relied upon as legal advice.

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