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Accident Benefits Definition of "Dependant"

A good analysis of the term "dependant" in the context of Ontario's Accident Benefits ("AB") regime: [Security National Insurance Co. v. The Wawanesa Mutual Insurance Co., 2013 ONSC 7589 \(CanLII\)](#)

This is a priority dispute arising from a pedestrian knockdown by a car. The injured 81 year old grandfather, a citizen of Bangladesh, was on an extended visitor's visa to Canada to stay with his son and help babysit grandchildren. The grandfather was retired and wealthy back home but in Canada, prohibited from working as per his visa terms, was he 'dependant' on his son and daughter-in-law?

The grandfather did not own a car and was not named as an insured on any automobile insurance policy that would have responded to this accident.

So, did the grandfather's Accident Benefits claim lie with his son's insurer (i.e. was he 'dependant' upon his son) or with the car that hit him?

The private arbitrator ruled that the plaintiff was 'dependant' financially upon his son. This appeal to the Ontario Superior Court: [Security National Insurance Co. v. The Wawanesa Mutual Insurance Co., 2013 ONSC 7589 \(CanLII\)](#) reviewed that arbitration decision for errors of law.

Ultimately, Justice Morgan overturned the Arbitrator's decision, on the basis that the injured grandfather was voluntarily in Canada and voluntarily making himself, temporarily, dependant on his son. Back in his native Bangladesh, the grandfather was financially independent and, in fact, considered wealthy. Therefore, it was held that the grandfather was not a 'dependant' upon his son.



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The result is that if the grandfather is not a dependant of the son, then the grandfather did not have automobile insurance coverage at the time of the accident, which means that the car which struck him is responsible for his Accident Benefits.

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Gregory Chang
Toronto Personal Injury and Insurance Lawyer