IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Groeneveld v. Hissink,*
2023 BCSC 2027

Date: 20231120
Docket: M202499
Registry: New Westminster

Between:

Seraina Groeneveld

Plaintiff

And

Kimberly Anne Hissink and Hyundai Capital Lease Inc.

Defendants

Before: The Honourable Justice Lamb

Reasons for Judgment

Counsel for the Plaintiff:	P.G. Kent
Counsel for the Defendants:	A.J. Gray D.P. Hoyt
Place and Dates of Trial:	New Westminster, B.C. June 5–9, 12–15, 2023 October 13, 2023
Place and Date of Judgment:	New Westminster, B.C. November 20, 2023

Introduction

[1] Seraina Groeneveld was injured in a motor vehicle accident that happened on June 8, 2016. Ms. Groeneveld claims damages for non-pecuniary loss, loss of past and future earning capacity, loss of housekeeping capacity, future cost of care, and special damages.

[2] The defendants admit liability for the accident.

[3] There is no dispute that Ms. Groeneveld suffered soft tissue injuries to her neck, upper back, and left shoulder region that continue to cause her pain, fatigue and functional limitations. She continues to have cervicogenic headaches from time to time. There is no dispute that Ms. Groeneveld suffered a post-traumatic brain injury that caused symptoms of brain fog, attention difficulties, irritability, and memory problems. She went on to develop post-traumatic brain injury syndrome, which resolved two years post-accident.

[4] One of the key disputes between the parties is whether or not a left-sided labral tear that was confirmed by MRI in September 2022 was caused by the accident.

[5] The second main point of contention between the parties is whether the plaintiff suffered a loss of earning capacity as a result of her injuries. At the time of the accident, Ms. Groeneveld had recently launched her career as a massage therapist. The parties agree that the plaintiff has ongoing chronic pain and is functionally limited to treating 21 massage therapy patients per week. The parties disagree about her pre-accident capacity. The plaintiff submits that she had the capacity to treat 35 massage therapy patients per week before the accident and says she has suffered a pecuniary loss as a result of her diminished functional capacity. On the other hand, the defendants say that the plaintiff's overall pace of billable work is the same now as it was pre-accident, though they acknowledge a past loss of earning capacity for the early stages of plaintiff's post-accident recovery.

[6] I will start by providing a brief background, with particular attention to the plaintiff's hip complaints after the accident. I will then set out my findings with respect to her injuries, including my findings with respect to causation of the labral tear. I will then turn to my findings regarding loss of earning capacity before providing my conclusions regarding the remaining heads of damages.

Background

[7] The plaintiff is 52 years old. At the time of the accident, she had recently separated from her husband, and she lived in an apartment with her youngest daughter, Hannah Groeneveld. Since July 2022, Ms. Groeneveld has lived with her common-law spouse, Tom Anderson.

[8] In terms of her employment history, Ms. Groeneveld worked as a dental assistant from 1992 to 1995. She stayed at home when her two children were young until she became a realtor in 2002. She worked as a realtor for a few years until she gave up that occupation to focus on her family's needs. In 2013, Ms. Groeneveld started a two-year program at the Vancouver College of Massage Therapy, a course of study that she had wanted to pursue for many years. In 2015, Ms. Groeneveld completed her massage therapy training and successfully wrote her board exams. She officially started her massage therapy practice on November 1, 2015 at the Willoughby Family Chiropractic clinic, which is where she was working at the time of the accident.

[9] Prior to the accident, Ms. Groeneveld was physically and socially active. She enjoyed hiking and other outdoor activities, including paddle boarding. Ms. Groeneveld had no pre-existing medical conditions that limited her work capacity or her recreational activities.

The accident and aftermath

[10] The accident occurred on June 8, 2016. Ms. Groeneveld was driving her Jeep through an intersection when her vehicle was T-boned by a Kia Soul driven by the defendant, Kimberly Hissink. The defendant driver was traveling 50 km/h and did not

brake for a red light before striking the passenger side of the plaintiff's Jeep. Based on Ms. Groeneveld's testimony, that of her daughter Hannah (who was the front seat passenger), and photographs of the damaged vehicles, I find the impact between the plaintiff's and defendant driver's vehicles was significant and forceful.

[11] On impact, Ms. Groeneveld felt like her whole body twisted in her seat. She felt her body snap to the right. Her upper body was restrained by the seatbelt. Her right knee struck the center console. She felt her left hip pop. When she got out of her vehicle, Ms. Groeneveld noticed that her right knee was quite sore.

[12] On impact, Hannah's body was thrown to the right, and she struck her head. Hannah started screaming and hyperventilating. Hannah was ultimately diagnosed with a concussion.

[13] Ms. Groeneveld's recollection of the day of the accident is somewhat patchy. She remembers moving her car, speaking to emergency personnel who attended the scene, and calling her older daughter. She remembers driving home from the accident scene, but she does not remember her older daughter driving her and Hannah to the hospital. Ms. Groeneveld does not remember whether or not she was assessed at the hospital: she was more focused on Hannah's injuries than her own.

[14] As they waited at the hospital, Ms. Groeneveld started to feel tension and pain in her upper left neck and shoulder. She began to feel achy all over and felt a headache developing on the left side. The hospital records confirm that Ms. Groeneveld complained of lower back pain, lower extremity pain, and aching joints all over. She was discharged with a diagnosis of contusion to her hip and leg. The hospital records make reference to bruises on her right side from the console and seatbelt buckle.

[15] Later that day, Ms. Groeneveld went to the Willoughby Family Chiropractic clinic where she completed an accident history questionnaire and saw a chiropractor. She reported mid back, right hip, knee, and low back symptoms, as well as a headache. There is a reference to "both hips" in the chiropractor's notes.

Ms. Groeneveld says that her low back and hips started to ache within the first 24 hours post-accident. She felt more tender on her right hip externally, but the hip pain on the left side felt “bone deep”.

[16] On June 10, 2016, Ms. Groeneveld saw her family doctor, Dr. Kathleen Ross. By that time, Ms. Groeneveld described “burning” thoracic pain, headache, vague numbness in her right hand and tenderness to touch with bruising to her right hip. Dr. Ross’s clinical notes indicate that the plaintiff had deep discomfort on examination of her left side psoas muscle, a muscle adjacent to the hip joint.

[17] On June 13, 2016, among other complaints, Ms. Groeneveld reported to her massage therapist that her “left hip flexor is deep and achy and is worse with movement”. Ten days later, Ms. Groeneveld again complained about her left hip flexor to her massage therapist.

[18] In the first few weeks following the accident, soft tissue pain to Ms. Groeneveld’s neck, upper back and left shoulder region became the dominant physical complaint. She pursued massage therapy, physiotherapy and chiropractic treatment. During this timeframe, Ms. Groeneveld also noticed cognitive complaints and complained of a “brain fog”. Her daughter described her as irritable. Ms. Groeneveld napped daily.

[19] Ms. Groeneveld tried to return to her massage therapy practice a few days after the accident, but pain and fatigue prevented her from seeing more than two to three patients per day. Over time, Ms. Groeneveld increased her patient load, though the evidence was not precise in terms of how fast that occurred.

Findings regarding injuries

Chronic pain

[20] The defendants acknowledge and I find that, as a result of the accident, Ms. Groeneveld suffered soft tissue injuries to her neck, upper back and shoulder girdle regions, mainly on the left side, resulting in chronic soft tissue pain. She suffers chronic post-traumatic headaches. Her condition plateaued three years post-

accident. She has been left with residual pain and functional limitations such that she is only able to treat 21 massage therapy patients per week.

[21] The defendants take “no issue” with the opinion of Dr. Lisa Caillier, physiatrist, regarding diagnosis and prognosis. I accept Dr. Caillier’s opinion that it is likely that Ms. Groeneveld will continue to have ongoing pain in her neck, upper back and shoulder girdle regions into the future. I accept that Ms. Groeneveld will likely continue to have post-traumatic headaches associated with neck pain.

Mild traumatic brain injury

[22] The defendants accept and I find that the plaintiff suffered a mild traumatic brain injury with post-traumatic brain injury syndrome that resolved two years post-accident.

[23] I accept the opinion evidence of Dr. Donald Cameron, neurologist, that Ms. Groeneveld likely fulfilled the criteria to make a diagnosis of mild traumatic brain injury at the time of the accident. As noted by Dr. Cameron, Ms. Groeneveld had a period of post-traumatic amnesia of a few hours, by which I mean that she could remember some things but not others.

[24] I accept Dr. Cameron’s opinion that Ms. Groeneveld likely developed symptoms of post-traumatic brain injury syndrome following the mild traumatic brain injury suffered as a result of the accident. Ms. Groeneveld had symptoms including headaches, decreased memory, decreased concentration, decreased attention span, irritability, mood swings, anger outbursts, decreased tolerance of stress, decreased libido, decreased ability to make decisions, and decreased self-confidence. Dr. Cameron opines that these symptoms support his diagnosis.

[25] Dr. Caillier also diagnosed Ms. Groeneveld with a mild traumatic brain injury with emotional, cognitive and physiological symptoms. Dr. Caillier identified altered balance, altered sleep and mental fogginess as additional symptoms that point to brain injury.

[26] I accept the opinions of Dr. Cameron and Dr. Caillier that the effects of the mild traumatic brain injury likely resolved two years post-accident and any cognitive complaints after that date are likely due to ongoing pain and discomfort or psychological problems arising from the accident.

Left labral tear

[27] On the totality of the evidence, I accept that the left labral tear was caused by the accident.

[28] There is no doubt that Ms. Groeneveld has a left labral tear, as confirmed by an MRI on September 22, 2022. She had no left hip symptoms prior to the accident. The only question is whether the labral tear was caused by the accident, which would make the defendants liable for damages for this injury.

[29] The defendants argue that the plaintiff has failed to prove that the left labral tear was caused by the accident. In support of their position, the defendants rely on the opinion of Dr. Robin Rickards, orthopaedic surgeon, and the absence of left hip pain for a number of years prior to an incident in September 2020. However, for the reasons that follow, I prefer the causation opinion of Dr. Brian Day, an orthopaedic surgeon who prepared an expert report at the request of the plaintiff.

[30] First, Dr. Day is better qualified than is Dr. Rickards to opine on the cause of the labral tear. In particular, Dr. Day has broader and more recent experience in the diagnosis and treatment of labral tears. Dr. Day was a Canadian pioneer in arthroscopic hip surgery (the prescribed treatment for labral tears), whereas Dr. Rickards has never performed arthroscopic surgery. Dr. Rickards has not performed any orthopaedic surgery since 2010. Although I found Dr. Rickards' report to be admissible, I give more weight to Dr. Day's opinion evidence based on Dr. Day's greater expertise.

[31] Second, I give more weight to Dr. Day's opinion because he performed an assessment of the plaintiff and the assumptions of fact he relied upon in reaching his opinion were proved at trial. In particular, Dr. Day relied upon the significant force of

the impact between the vehicles as a factor in finding the accident was the cause of the labral tear. On the other hand, Dr. Rickards did not request or receive any information about the nature of the impact, which he acknowledged in cross-examination would have been important to understand how the labral tear might have happened. Dr. Day relied upon the plaintiff's early post-accident complaints of pain in the left hip to find that there was a temporal connection between the accident and left hip symptoms. On the other hand, Dr. Rickards did a records review to find the assumed facts upon which he based his opinion; however, in doing so, he overlooked a number of clinical entries that indicated that the plaintiff had pain in her left hip shortly after the accident. Dr. Day confirmed the plaintiff's history with her during his assessment. On the other hand, Dr. Rickards failed to verify his understanding of clinical notes before opining on causation of the labral tear, which led to error. For example, Dr. Rickards transformed an incident described in a February 2022 orthopaedic surgeon's consult report as "stepped off the curb" into "the slip and fall off a curb", which he concluded was the "likely cause of the event of these left hip labral tear symptoms". I am satisfied that Ms. Groeneveld did not slip and fall in September 2020 as assumed by Dr. Rickards. Further, based on the evidence of both Dr. Day and Dr. Rickards under cross-examination, I find that the step off a small concrete pad (which did happen in September 2020) was likely not forceful enough to cause a labral tear.

[32] In summary, where the opinions of Dr. Day and Dr. Rickards differ, I prefer the opinion of Dr. Day.

[33] In their written submissions, the defendants say that Dr. Day's opinion should not be accepted because the plaintiff's consulting orthopaedic surgeon suggested degenerative changes might be responsible for her complaints of hip pain. However, the orthopaedic surgeon's consult report was not tendered nor admitted as opinion evidence at trial, and Dr. Day rejected the consulting surgeon's conclusions when they were put to him in cross-examination. I note that Dr. Rickards did not opine that Ms. Groeneveld's left hip complaints or the labral tear were attributable to degenerative changes.

[34] Both Dr. Rickards and Dr. Day confirmed that a labral tear may be asymptomatic for periods of time depending on activity level and may become symptomatic again after being aggravated by certain movements or activities. This pattern is consistent with Ms. Groeneveld's hip symptoms since the accident. Shortly after the accident, she had some hip pain that seemed to resolve or at least was overtaken by her upper body complaints. Ms. Groeneveld continued to have "stabby, deep pain" in her left hip from time to time, especially if she twisted her left hip; she could not rotate her left leg too far interiorly or exteriorly, and she continued to have difficulty with a particular yoga pose involving her left hip. She noticed more consistent left hip pain after she stepped off the concrete pad and twisted her left hip in September 2020, which led her to consult with an orthopaedic surgeon in February 2022. I accept Dr. Day's opinion that the step off the concrete pad likely aggravated Ms. Groeneveld's pre-existing labral tear. Ms. Groeneveld noticed pain in her left hip when she resumed playing golf in the summer of 2021.

[35] The defendants argue that Ms. Groeneveld's evidence regarding her intermittent hip symptoms is not credible because she told Dr. Caillier in May 2020 and Jerica Ditson, occupational therapist, in July 2020 that her symptoms of hip pain from the accident had resolved. I accept Ms. Groeneveld's explanation that she did not associate her intermittent left hip symptoms with the accident but instead she thought her intermittent hip pain was work-related. Overall, I found Ms. Groeneveld was a credible witness who did not exaggerate her complaints. According to Dr. Day, the increased frequency and intensity of the left hip pain after the assessments with Dr. Caillier and Ms. Ditson can be explained by the aggravation of the left labral tear in September 2020 and Ms. Groeneveld's return to rotational weightbearing activities such as golf in 2021.

[36] One oddity in the evidence that was not completely explained was Ms. Groeneveld's normal left hip exam on assessment by Dr. Caillier in May 2020. Defence counsel suggested to Dr. Day on cross-examination that a normal hip exam in May 2020 was inconsistent with his conclusion that the accident caused the labral tear. Dr. Day did not dispute what Dr. Caillier found, but he suggested that she had

probably never seen a labral tear let alone treated one. He reiterated that a person with a labral tear can have days with no pain and no symptoms. Dr. Day was not cross-examined regarding the type of hip examination that would be expected to detect a labral tear or whether such an examination could nevertheless be normal, despite the existence of a labral tear, on a day when the labral tear was asymptomatic.

[37] Dr. Caillier was cross-examined on her report after Dr. Day's cross-examination was complete (but before he returned for re-examination). On cross-examination, Dr. Caillier was asked to explain how she examined the plaintiff's hips. As part of her clinical exam, Dr. Caillier "will stress the hip joint, looking for any type of labral pathology". If she finds any, she will note it. Ms. Groeneveld's exam was "normal, unremarkable". Dr. Caillier was not asked any follow-up questions regarding the nature or implications of her hip exam.

[38] Without expert evidence to explain the significance or insignificance of the results of the hip examination actually conducted by Dr. Caillier, I am not prepared to find that the normal hip examination in May 2020 casts doubt on Dr. Day's causation opinion.

[39] Because of her labral tear, Ms. Groeneveld takes care to walk on even surfaces and to avoid sudden twisting motions as much as she can. She uses kinesiology tape and compression tights to support her left hip when she golfs or skis. She has tried strengthening exercises for her hips. As time goes on, she is finding her left hip is increasingly more bothersome, and it requires less rotation to trigger pain.

[40] I accept Dr. Day's opinion that Ms. Groeneveld may need hip arthroscopy if her symptoms persist or worsen and that hip replacement surgery is more likely than it would have been without the accident. Dr. Day opines that Ms. Groeneveld is unlikely to obtain complete recovery even with successful surgery. He anticipates there will be deterioration in the left hip in the future. Dr. Day opines that "[a]rthroscopic hip surgery may require several months of post-surgical recovery",

and it may take six months or more to achieve maximum recovery from hip replacement surgery (which she will likely need in later years). Dr. Day does not say whether these surgeries will result in time off work or, if they do, how much.

Damages

Loss of earning capacity

[41] In order to assess whether Ms. Groeneveld suffered a loss of earning capacity as a result of the accident, it is necessary to assess both what her earning capacity was prior to the accident and what impact the accident had on that capacity.

[42] The defendants acknowledge that Ms. Groeneveld is functionally limited to treating 21 patients per week as a result of her accident-related injuries. However, the defendants assert that her earning capacity is unchanged from what it was pre-accident, because (based on her recorded earnings) she did not consistently treat 35 patients per week prior to the accident. The defendants say that the plaintiff's credibility is adversely affected by her evidence that she saw 35 patients per week pre-accident.

[43] The plaintiff says that she was not functionally limited prior to the accident. Under cross-examination, Ms. Groeneveld clarified that she was capable of treating 35 patients per week prior to the accident, though she acknowledged that she was still building her practice when the accident happened eight months into her massage therapy career. Although she has tried since the accident to increase her weekly patient-load, Ms. Groeneveld is limited to 21 patients per week. Ms. Groeneveld's services are in demand, and she has a lengthy waitlist. If she was physically capable of seeing more patients, the work is available for her.

[44] The expert opinions of Dr. Caillier and Ms. Ditson confirm that Ms. Groeneveld is functionally limited to working part-time.

[45] In her report dated May 21, 2020, Dr. Caillier opined that Ms. Groeneveld's "ability to return to work fulltime or seeing at least 30 patients per week is likely poor"

and that she is “more likely suited to part-time work such as four times per week”. Dr. Caillier suggested it might be possible for the plaintiff to increase her hours if she responded well to further treatment; however, Ms. Groeneveld’s condition did not change significantly after she pursued additional personal training in the fall of 2020.

[46] Ms. Ditson performed a functional capacity examination of the plaintiff on July 29, 2020, which demonstrated limitations with respect to activities that stressed the plaintiff’s neck, upper back and left shoulder. Based on the results of the functional capacity examination, Ms. Ditson opined that Ms. Groeneveld was “likely employable as a Registered Massage Therapist on a part-time basis in an accommodated environment”. Ms. Ditson suggested that the plaintiff would require shorter work days with time between patients or days off between work shifts in order to manage her symptoms. Ms. Ditson opined that Ms. Groeneveld’s “limitations related to her neck, upper back and left shoulder will likely reduce her level of productivity and the number of clients that she will be able to treat on a daily and weekly basis”. Ms. Ditson also suggested that the plaintiff’s “overall ability to compete for work in an open job market is reduced due to her ongoing physical and functional limitations related to her left neck, left upper back and left shoulder”. The defendants do not “take issue” with Ms. Ditson’s opinion, and I found her evidence to be persuasive.

[47] Neither Dr. Day nor Dr. Rickards offered an opinion regarding the plaintiff’s work capacity or whether the labral tear affected her ability to work as a massage therapist.

[48] I accept Ms. Groeneveld’s evidence that, prior to the accident, she worked four or five days per week as a massage therapist without functional limitation. She took the occasional day off work to spend time with Hannah, who was then a teenager. In direct examination, Ms. Groeneveld said that she treated seven patients per day, four to five days per week, and that she was pretty much fully booked. Under cross-examination, Ms. Groeneveld acknowledged that, prior to the accident, her schedule was open for up to seven patients per day, but sometimes she had gaps as she built up her business or she had some cancellations or no shows.

However, she was generally available to see seven patients per day and was willing and able to work.

[49] There were no billing records available for the period of November 1, 2015 to March 6, 2017 (the date on which Ms. Groeneveld moved her practice to a different clinic). As a result, there were no documents to establish how many patients Ms. Groeneveld actually treated on a weekly basis during her first eight months as a registered massage therapist. The only documents that prove her 2015 and 2016 billings are her tax returns, which show gross business income from November 1, 2015 to December 31, 2015 ($11,840) and for 2016 ($77,629). Not surprisingly, given the passage of time and lack of documentation, Ms. Groeneveld had some difficulty remembering her pre-accident billing rates. Based on the rate she charged in 2017, I find that she was likely charging at most $100 for a one-hour massage in 2015 and 2016. At that rate, her reported business income for 2015 suggests that she saw an average of approximately 15 patients per week (if they were one-hour massages) during her first two months in practice. Unfortunately, there are no documents available to help determine how to allocate the business income reported on her 2016 tax return between pre-accident and post-accident billings.

[50] The defendants argue that Ms. Groeneveld's credibility is undermined because her earnings for 2016 do not establish that she was seeing as many patients before the accident as she claimed. To illustrate their point, the defendants prepared a series of calculations to demonstrate what her earnings would have been if she had seen seven patients per day, four to five days per week between January 1 and June 8, 2016 and compared those figures to her actual business earnings for 2016. While the calculations demonstrate that Ms. Groeneveld could not have consistently treated patients for 35 hours per week prior to the accident (as this would have generated billings of $77,000 prior to June 8, 2016), some of the calculations reflect that there was variability in the duration of appointments, which affects the defendants' estimate of pre-accident billings. For example, if Ms. Groeneveld had treated 35 half-hour patients per week from January 1, 2016 to June 8, 2016, she would have generated $38,500 in gross billings, i.e.,

approximately 50% of her annual billings for 2016. In short, I am not satisfied that the defendants' calculations of hypothetical billings undermine the plaintiff's credibility in the way the defendants suggest.

[51] I am satisfied that the plaintiff was not trying to mislead the Court when testifying about her pre-accident practice. As noted above, overall, I found the plaintiff to be a credible witness. She said repeatedly in her direct examination that her pre-accident "usual" schedule was seven patients per day, four or five days per week. However, she readily acknowledged on cross-examination that she did not mean to imply that she filled all the available appointments every day. She acknowledged that she was still building her practice by June 2016, that she had gaps in her schedule, and that sometimes there were no-shows or cancellations. However, she was available to see seven patients per day, and she was keen to fill her schedule. There is no evidence that Ms. Groeneveld had any physical limitations that precluded her from seeing more than 21 patients per week. I accept that, as a single parent with bills to pay and as an enthusiastic latecomer to her profession, Ms. Groeneveld was motivated to build her practice. I am satisfied that prior to the accident, Ms. Groeneveld had the capacity to see more than 21 patients per week.

[52] Ms. Groeneveld is now limited to working four days per week, and she starts late on Wednesdays so she can sleep in. With the occasional no-show or last-minute cancellation, Ms. Groeneveld sees 19 to 21 patients per week on average.

Past loss of earning capacity

[53] Compensation for past loss of earning capacity is based on what the plaintiff would have, not could have, earned but for the injury that was sustained: *Rowe v. Bobell Express Ltd.*, 2005 BCCA 141 at para. 30. When assessing damages for past loss of earnings, I may consider hypothetical events that may have happened in the past provided there is a real and substantial possibility they would have occurred but for the injuries Ms. Groeneveld suffered: *Athey v. Leonati*, [1996] 3 S.C.R. 458 at para. 27, 1996 CanLII 183. Hypothetical events are to be given weight according to their relative likelihood: *Athey* at para. 27.

[54] The defendants submit that the plaintiff should be awarded the net amount of $21,000 for past loss of earning capacity. The defendants acknowledge that this figure is “maybe somewhat arbitrary”. The defendants offer two calculations that assume a reduced patient load in 2016 and 2017 due to accident-related injuries. This assumption is reasonable based on the plaintiff’s higher gross billings in 2018, 2019 and 2021 together with her evidence about building her patient load post-accident to 21 per week over time. In their first calculation, the defendants estimated past loss of earning capacity by taking the difference between the approximate average of the 2018, 2019 and 2021 billings and actual billings in 2016 and 2017. In the second, the defendants estimated post-accident 2016 billings using a rate of three patients per day for the balance of the year and working backwards to calculate pre-accident 2016 billings. The second calculation estimates the plaintiff’s past loss of earning capacity based on the difference between what her earnings were and what they would have been if she had continued to bill at the same rate over the last seven months of 2016 as she did in the first five months of 2016.

[55] The defendants’ first calculation is only helpful if I find that Ms. Groeneveld’s with-accident billings in 2018, 2019 and 2021 were the same as what her without-accident billings would have been in 2018, 2019 and 2021. The defendants’ second calculation is only helpful if I find that the plaintiff’s pre-accident 2016 billings are indicative of what she would have earned during the second half of 2016 and beyond. I do not accept either of the premises that underlie the defendants’ two calculations.

[56] As noted, the plaintiff was in the process of building her business, she was keen to fill her schedule, and she had no physical or functional limitations that would have prevented her from seeing more than 21 patients per week. On the whole of the evidence, I am satisfied that the plaintiff would have billed more in the second half of 2016 than she did in the first half and that she would have taken on more than 21 patients per week in 2017 and beyond if she had not been injured in the accident.

[57] The plaintiff tendered an expert report from Darren Benning, economist, that estimated Ms. Groeneveld's future loss of earning capacity; however, there was no expert evidence tendered to assist with the assessment of past loss of earning capacity. Of relevance to the assessment of her past loss of earning capacity, I accept as reasonable Mr. Benning's assumption that a reduction in gross income from working fewer hours would result in a savings in expenses equal to five percent of the gross income reduction.

[58] The plaintiff submits that the award for past loss of earning capacity should be $161,362.38, less deductions mandated by s. 98 of the *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231. The plaintiff derives this figure by assuming that the plaintiff earned 70% of what she would have earned if she had not been injured in the accident. The plaintiff then grossed up her actual net business income for 2016 to 2021 (the last year her income tax returns were available) to estimate what her net business income would have been if she had been able to work at 100%. The proposed award is the difference between expected net billings and actual net billings for the years 2016 to 2021.

[59] The plaintiff's approach for assessing past earning capacity is appealing in its simplicity. The plaintiff's approach removes the variability in annual billings that arises as a result of different rates charged per patient based on the length of treatment and changes in rates over time. By grossing up each year's net billings, the plaintiff's approach avoids including in the assessment of her accident-related loss any reduced billings arising from the temporary drop in patient load that followed her change of clinics in March 2017 and as a result of the COVID-19 clinic closure in 2020. Grossing up her actual billings also recognizes that having the functional capacity and availability to work as a massage therapist do not always translate into actual billings. However, grossing up net billings ignores the 5% saving of fixed expenses identified by Mr. Benning.

[60] As a general approach to assessing the plaintiff's past loss of earning capacity, I accept that it is reasonable to assess her past loss on the basis that from

2017 to the date of trial, Ms. Groeneveld's likely gross billings were 20% less than they would have been but-for her injuries from the accident. I accept her evidence that she treats an average of 19 to 21 patients per week, which is generally consistent with her actual earnings reported on her income tax returns. Based on the plaintiff's strong work ethic, her post-accident success in building her practice, and her pre-accident full functional capacity, I accept that she would have likely treated at least 24 to 26 patients per week on average if she had not been injured in the accident. Assuming the same mix of treatment durations, a 20% reduction to her without-accident capacity means she would have earned 25% more in gross billings than she actually billed between 2017 and 2021.

[61] Based on the foregoing, the plaintiff's expected without-accident gross billings and her loss of net billings due to her accident-related injuries for the years 2017 to 2021 is estimated as follows:

Year	Actual with-accident gross billings (80% of expected without accident gross billings)	Expected without-accident gross billings	Loss of gross billings	Loss of net billings (accounting for 5% savings of difference in gross billings in respect of fixed expenses)
2017	$92,479	$115,598	$23,119	$21,963
2018	$99,346	$124,183	$24,837	$23,595
2019	$98,680	$123,350	$24,670	$23,437
2020	$83,837	$104,796	$20,959	$19,911
2021	$115,429	$144,286	$28,857	$27,414

[62] It is somewhat more difficult to assess the past loss of earning capacity for 2016. The plaintiff did not testify as to the breakdown in billings between the pre-accident and post-accident period, and there are no records to assist. The plaintiff testified that she returned to work within a week after the accident, and initially she was only able to treat two patients before the pain overwhelmed her. Ms. Groeneveld increased her patient load over time; however, it is unclear exactly when she was able to see up to 21 patients per week consistently.

[63] Doing the best I can with the available evidence, I find that Ms. Groeneveld likely earned 60% of her 2016 billings between January 1 and June 8, 2016 and 40% of her billings over the balance of the year, i.e., her actual gross billings from June 8, 2016 to the end of 2016 are estimated to be $31,052. In addition to the plaintiff's evidence about her post-accident return to work, I have relied on the fact that the plaintiff was still building her business in early 2016. This allocation of billings is consistent with the assumption used by the defendants in their second calculation of past loss of earning capacity, i.e., an average of three patients per day from the date of the accident to the end of 2016.

[64] I find that, but-for the accident, the plaintiff likely would have had similar billings in the second half of 2016 as she would have generated in the same time period in 2017. I have already found that Ms. Groeneveld would have billed more in the second half of 2016 than the first half as she continued to build her practice. In 2015, the last few months were busy as patients used their remaining annual extended benefit allotment. It is reasonable to expect that Ms. Groeneveld would have had a similar busy year-end in 2016. Her full-year monthly average earnings for 2017 provide a reasonable estimate of what her average monthly billings for the latter half of 2016 would have been but-for the accident. On that basis, her estimated without-accident gross billings from June 8, 2016 to year end would be proportionate to my estimate of her without-accident gross billings in 2017. In other words, her expected without-accident gross billings from June 8, 2016 to year end would have been $65,597 (143/252 working days multiplied by $115,598). As a result, the estimated difference in gross billings for 2016 as a result of her accident-related

injuries is $34,545. The difference in net billings for 2016 after accounting for savings of fixed expenses would be $32,818.

[65] The plaintiff's submission did not include any loss for 2022 and the first few months of 2023, and I decline to award damages for that time period. Ms. Groeneveld testified that her earnings in 2022 were relatively consistent with what they were before 2022; however, she was reluctant to guess what her 2022 total billings were. I note that she moved to a new clinic in July 2022, which caused a temporary dip in her patient load. The plaintiff failed to provide any records that could have confirmed her gross billings for 2022 or early 2023. Overall, I find that the plaintiff failed to meet the burden on her to prove a past loss of earning capacity for 2022 and early 2023.

[66] Based on my findings of fact and the assumptions set out above, the total difference in net billings from the date of the accident to the date of the trial is approximately $149,138.

[67] In the circumstances, I am satisfied that the appropriate award for past loss of earning capacity is $150,000, subject to deductions pursuant to s. 98 of the *Insurance (Vehicle) Act*. I am required to assess rather than calculate damages for past loss of earning capacity. The proposed award is the equivalent to a loss of approximately $25,000 in the first six and a half months post-accident and an ongoing annual loss of $25,000, which is approximately $500 per week less in net billings and approximately three to five fewer patients per week. I find that an award of $150,000 is reasonable in light of all of my findings regarding her injury, her functional limitations and her anticipated without-accident career path.

Future loss of earning capacity

[68] I find that Ms. Groeneveld has suffered a future loss of earning capacity on the same basis that she has suffered a past loss of earning capacity. As a result of her injuries from the accident, Ms. Groeneveld is not able to treat as many patients as she would have if the accident had not occurred. Based on Dr. Caillier's opinion that her symptoms are likely to continue and the time that has passed without a

change in her condition despite ongoing treatment, I am satisfied that Ms. Groeneveld has an ongoing loss of capacity that will result in a pecuniary loss of approximately 20% of her without-accident earning capacity.

[69] Before an award can be made for loss of future earning capacity, a plaintiff must demonstrate "that there is a real and substantial possibility of a future event leading to an income loss": *Perren v. Lalari*, 2010 BCCA 140 at para. 32.

[70] In *Rab v. Prescott*, 2021 BCCA 345, Justice Grauer distilled a three-step test for assessing claims for loss of future earning capacity. The first step requires proof of a potential future event that could lead to a loss of capacity, and the second step requires evidence of a real and substantial possibility that the future event will cause a pecuniary loss. In this case, Ms. Groeneveld continues to suffer chronic pain in her neck, upper back and left shoulder region, which has reduced her earning capacity by limiting the number of patients she is physically able to treat in a week. There is a real and substantial possibility that her functional limitation will cause a pecuniary loss in the future, much as her functional limitation has caused a pecuniary loss in the past: her billings are reduced because she is not able to treat more than 21 patients per week, whereas she was not functionally limited before the accident.

[71] Despite her concern about her hip potentially interfering with her work in the future, I find that the plaintiff has failed to establish that there is a real and substantial possibility that she will suffer a loss of earnings in the future as a result of her labral tear. Ms. Ditson found no functional limitations related to the hip when she assessed the plaintiff in July 2020. Dr. Day did not opine that her labral tear would limit the plaintiff's capacity to work as a massage therapist. Dr. Day opined that arthroscopic hip surgery may require several months of post-surgical recovery, but he did not clarify how much time off work, if any, would be required post-surgery. He opined that hip surgery is now more likely "in later years" and that it may take six months or more "to achieve maximum recovery", but again he did not say that hip surgery would be required before the plaintiff's anticipated retirement date or that, if it were, she could not work or for how long.

[72] Once a future loss of capacity is established, the third step of the *Rab* test involves the quantification of that loss by using the "earnings approach", as in *Pallos v. Insurance Co. of British Columbia* (1995), 100 B.C.L.R. (2d) 260, 1995 CanLII 2871 (C.A.), or the "capital asset approach" from *Brown v. Golaiy* (1985), 26 B.C.L.R. (3d) 353, 1985 CanLII 149 (S.C.). Both of these approaches are correct. The earnings approach will be more useful when the loss is easily measurable: *Perren* at para. 32.

[73] While assessing an award for future loss of income is not a purely mathematical exercise, the court should endeavour to use factual mathematical anchors as a starting foundation to quantify such loss: *Jurczak v. Mauro*, 2013 BCCA 507 at paras. 36–37. In this case, I find that the evidence required to assess the plaintiff's loss using an earnings approach is found in the plaintiff's pre-accident and post-accident annual billings, her testimony, the opinion evidence from Dr. Caillier and Ms. Ditson, and expert evidence from two economists.

[74] The plaintiff seeks an award for future loss of earning capacity in the amount of $304,342 based on calculations in Mr. Benning's report that purport to be based on a 30% reduction in billings until retirement at age 67. However, Mr. Benning's calculations are not helpful. To calculate the present value of Ms. Groeneveld's without-accident net billings, Mr. Benning assumed that Ms. Groeneveld's without-accident annual full-time net billings would have been $86,911, a figure derived from her actual 2021 with-accident net billings adjusted for at-home expenses and the weekly wage rate increase in British Columbia between 2021 and 2023. Mr. Benning then calculated the present value of net billings of $86,911 and deducted the net present value of the equivalent of a 30% reduction in gross billings to calculate an estimated loss of $304,342. However, the fundamental premise of Mr. Benning's calculation is flawed. There is no justification in his report nor any logical reason for his assumption that Ms. Groeneveld's without-accident net billings would be equal to her actual with-accident net billings for 2021. In short, Mr. Benning's calculation is not helpful to my assessment of Ms. Groeneveld's loss of future earning capacity.

Further, Mr. Benning's calculation assumes that the plaintiff would continue to work to age 67, with or without the accident, which is not consistent with her evidence.

[75] I find on the evidence that Ms. Groeneveld is likely to continue to suffer a 20% reduction in gross annual billings due to her functional limitations caused by her accident-related chronic pain in her neck, upper back and shoulders. For the purposes of projecting her ongoing pecuniary loss into the future, it would have been preferable to have 2022 and current 2023 gross and net billings. However, given the pattern of annual past losses of earnings, I find that $25,000 is a reasonable estimate of her annual loss of net billings based on without-accident gross billings of $130,606, with-accident gross billings of $104,485, and a savings on expenses at a rate of 5% of the reduction in gross billings. These figures are based on the average of with-accident and without-accident gross billings for 2018, 2019 and 2021—years where her post-accident patient load had stabilized and her billings were not affected by a change of clinic (as in 2017) or a COVID-19 clinic closure (as in 2020).

[76] The next step in assessing the plaintiff's loss of future earning capacity is to consider her anticipated date of retirement, with and without the accident. In her direct testimony, when asked about when she might have retired if the accident had not happened, Ms. Groeneveld said that she imagined that she could have kept working to age 70 or 75, not full-time but definitely keep on working. Ms. Groeneveld knows other massage therapists who work into their seventies. In her current condition, Ms. Groeneveld can see herself working to age 60 to 65: working to age 60 would be quite reasonable, and she holds out hope that she can keep going. Ms. Groeneveld was not cross-examined on her testimony regarding her anticipated date of retirement. Mr. Benning testified in cross-examination that the average retirement age for self-employed women (which would include Ms. Groeneveld) is 67, with some continuing to age 70 or 75 but not many work longer than that.

[77] Based on the evidence of Ms. Groeneveld and Mr. Benning, absent the accident, I find there is a 75% likelihood that Ms. Groeneveld would have retired at age 67, after working consistently to that age with a patient load of 24 to 26 patients

per week (i.e., billing at the rate I have found she would have billed but-for the accident). Absent the accident, I find there is a 25% likelihood that she would have continued to work at 50% of that capacity to age 70. I find Ms. Groeneveld's stated without-accident retirement plans are realistic given her work ethic and her enthusiasm for her chosen profession, which she started late in life.

[78] With her accident-related injuries, I find that there is a 75% likelihood that Ms. Groeneveld will retire at age 65 after continuing at her current patient load until then and a 25% likelihood that she will continue working after age 65 at half her current rate until retirement at age 67. I have considered and relied upon Ms. Groeneveld's current anticipated retirement date, her continued enthusiasm for her work and her stoicism: these factors make it likely that she will persevere to at least age 65.

[79] The final mathematical anchor for the assessment of the plaintiff's future loss of earning capacity is the present value multiplier. Mr. Benning provided actuarial multipliers and economic multipliers to age 67. He suggests that the actuarial multiplier (which includes survival as the only contingency) is the more appropriate multiplier in this case because the plaintiff is self-employed, thus she does not face a risk of unemployment, and she works part-time, so including a contingency for part-time work would double count this factor.

[80] The defendants tendered a rebuttal report from Thomas Steigervald, economist, in response to Mr. Benning's report. Mr. Steigervald was not cross-examined on his report. Mr. Steigervald opined that the unemployment contingency that is included in the economic multiplier "could be used as a proxy for general economic conditions, which … may also affect self-employed workers via reduced revenue and risk of business closure". I accept that the unemployment contingency might be appropriately applied for some self-employed individuals, but I accept that Ms. Groeneveld has no shortage of patients waiting for her services. In her case, applying the average unemployment contingency of 4% would overstate her risk of reduced revenue and business closure. On the other hand, I accept that a 2%

business risk contingency should be applied, as her business is not immune from the unforeseen risk of an event like the COVID-19 pandemic or a general economic slow-down.

[81] Mr. Steigervald suggests that a voluntary and involuntary part-time work contingency should apply. I accept that an involuntary part-time work contingency should be applied to the multiplier used to assess Ms. Groeneveld's without-accident earning capacity. Given her commitment to her profession and my other findings regarding her anticipated with and without accident patient load to retirement, it would not be appropriate to include a voluntary part-time work contingency in the multiplier used to assess the plaintiff's without-accident earning capacity. Further, I accept Mr. Benning's opinion that it would be inappropriate to apply a part-time contingency to the multiplier used to assess her with-accident earning capacity because she is already working part-time.

[82] Applying these findings to Mr. Benning's actuarial multiplier, I find that the appropriate without-accident multiplier to age 67 is 11,982 (12,912 less 2% for business risk and 5.2% for involuntary part-time work). I find the appropriate with-accident multiplier to age 65 is 11,944 (12,188 less 2% for business risk) and to age 67 is 12,654 (12,912 less 2% for business risk). I note that the multipliers provided in Mr. Benning's table 4 are from January 9, 2023, the original trial date in this matter. I have adjusted the multiplier to age 65 to reflect Ms. Groeneveld's birthday in September, but I have not attempted to adjust the multipliers to account for the actual trial date.

[83] Finally, because the economists only provided multipliers to age 67, based on the present value discount table in CIVJI and extrapolating from the survival contingency to age 67, I have estimated conservatively that the multiplier to age 70 would be 12,992 for the without-accident scenario (14,000 less 2% for business risk and 5.2% for involuntary part-time work).

[84] These multipliers assist the Court in determining the plaintiff's loss of future earning capacity, but ultimately her loss much be assessed, and I am satisfied that these multipliers (as adjusted) are adequate mathematical anchors in this case.

[85] Using these mathematical anchors, I find as follows:

a) Without-accident earning capacity is $1,581,410 based on:

i. 75% of gross billings for 24 to 26 patients/week to age 67: $130,606/1000 x 11,982

ii. 25% of gross billings retiring at age 70 with half patient load after age 67: $130,606/1000 x 11,982 + $65,303/1000 x (12,992 – 11,982)

b) With-accident earning capacity is $1,285,053 based on:

i. 75% of gross billings for 19 to 21 patients/week to age 65: $104,485/1000 x 11,944

ii. 25% of gross billings retiring at age 67 with half patient load after age 65: $104,485/1000 x 11,944 + $52,243/1000 x (12,654 – 11,944)

[86] The defendants submit that there should be no award for future loss of earnings in this case. In support of their position, the defendants rely on *Kaur v. Bual*, 2021 BCSC 1385 and *Dutton-Jones v. Dha*, 2023 BCSC 854, two decisions I rendered in which there was no award for future loss of earning capacity based on the findings of fact in those cases. However, those two cases are distinguishable on their facts, and they do not assist in my assessment of Ms. Groeneveld's loss of future earning capacity. In particular, those two cases do not help me decide what the plaintiff's earnings trajectory would have been if the accident had not happened.

[87] The ultimate step in the *Rab* analysis is consideration of whether the assessment of the loss of earning capacity is reasonable: *Lo v. Vos*, 2021 BCCA 421 at para. 117; *Rab* at para. 47. Based on the mathematical anchors I have identified, I am satisfied that $1,580,000 is a reasonable estimate of

Ms. Groeneveld's without-accident future earning capacity and that $1,285,000 is a reasonable estimate of her with-accident future earning capacity. The difference between without-accident earning capacity and with-accident earning capacity is $295,000. An award of $300,000 would represent a loss of approximately 19% of Ms. Groeneveld's without-accident future earning capacity and an annual net loss of billings of approximately $25,000 to age 65.

[88] Based on the foregoing, I am satisfied that $300,000 is a reasonable assessment of Ms. Groeneveld's future loss of earning capacity. She is entitled to damages to compensate her for that loss.

Loss of housekeeping capacity

[89] A loss of housekeeping capacity may be compensated by a pecuniary or non-pecuniary award: *McTavish v. MacGillivray*, 2000 BCCA 164 at para. 2; *Liu v. Bains*, 2016 BCCA 374 at para. 26. While not seeking to create an inflexible rule in answer "to the somewhat vexing issue of valuing loss of housekeeping capacity" (at para. 27), the Court of Appeal in *Kim v. Lin*, 2018 BCCA 77 endorsed the following approach:

> [33] … [W]here a plaintiff suffers an injury which would make a reasonable person in the plaintiff's circumstances unable to perform usual and necessary household work — i.e., where the plaintiff has suffered a true loss of capacity — that loss may be compensated by a pecuniary damages award. Where the plaintiff suffers a loss that is more in keeping with a loss of amenities, or increased pain and suffering, that loss may instead be compensated by a non-pecuniary damages award.

[90] In this case, I am not satisfied that the evidence establishes that Ms. Groeneveld is not able to do certain housekeeping tasks. In particular, I rely on Dr. Caillier's opinion as of May 2020 that Ms. Groeneveld was "capable of engaging in activities around the home" provided that she paced herself and prioritized her activities. I accept that, since the accident, doing certain household chores (such as cleaning overhead) continues to cause Ms. Groeneveld pain, for which she should be compensated as part of the award for non-pecuniary damages. Currently,

Ms. Groeneveld's partner takes on the heavier housekeeping tasks; however, I am not satisfied that she has lost the capacity to do those tasks.

Non-pecuniary loss

[91] An award for non-pecuniary loss is intended to compensate a plaintiff for her pain and suffering, her loss of enjoyment of life, and her loss of amenities, both to the date of trial and into the future. In assessing Ms. Groeneveld's non-pecuniary loss, I have considered the factors set out in *Stapley v. Hejslet*, 2006 BCCA 34 at paras. 45–46, leave to appeal to SCC ref'd, 31373 (19 October 2006).

[92] Ms. Groeneveld has endured chronic pain in her upper back, neck and shoulder for more than seven years. She has had intermittent pain in her left hip that has become more frequent and pronounced after an incident in September 2020 and her return to golf and skiing. She suffered through two years of post-traumatic brain injury syndrome symptoms. Her ability to engage in her chosen profession, for which she is clearly passionate, has been compromised. Ms. Groeneveld gave up most of her physical activities for the first five years post-accident. Her leisure activities continue to be affected. In addition to ongoing paramedical therapies, she continues to use painkillers and a heating pad on a regular basis. She faces the risk of future hip surgery.

[93] Ms. Groeneveld's injuries have interfered with her social life. Initially, she had little energy for anything but work. Over time, she has learned to limit and pace her patient load so that she is able to function at home, but she still naps a few times per week as a result of fatigue. Her injuries have interfered with intimacy with her romantic partner. Ms. Groeneveld gave up her high energy dog because she was not able to walk it enough.

[94] Ms. Groeneveld seeks an award of $120,000 for her non-pecuniary loss. She relies upon the following cases (with their inflation-adjusted awards indicated in brackets):

a) *Bideshi v. McCandless*, 2020 BCSC 1853 ($110,478);

b) *Clark v. Kouba*, 2012 BCSC 1607 ($108,789);

c) *Foran v. Nguyen*, 2006 BCSC 605 ($128,901);

d) *Bolgar v. Fraser*, 2023 BCSC 468 ($100,000); and

e) *Macdonald v. Hazel*, 2012 BCSC 2079 ($102,389).

[95] The defendants submit that the award for non-pecuniary loss should be $100,000. The defendants again rely on *Kaur* ($85,000, a case where there was a separate award of $25,000 for loss of housekeeping capacity) and *Dutton-Jones* ($85,000). Ms. Groeneveld's physical complaints and limitations exceed those of the plaintiffs in these two cases. Neither of the plaintiffs in the cases cited by the defendants were functionally limited to part-time work as a result of their injuries from the accidents. Neither of the plaintiffs in the cases cited by the defendants had mild traumatic brain injuries and related symptoms for two years. Neither of the plaintiffs in the cases cited by the defendants faced possible future surgery as a result of an injury from the accidents.

[96] Recognizing that each case turns on the specific factual findings that underpin the award for non-pecuniary loss, I find that the most analogous case is *Bolgar*. In both *Bolgar* and this case, the plaintiffs suffered from chronic pain in the neck/upper back region with an ongoing impact on leisure activities and limitation on hours of work, though Ms. Groeneveld's employment is more physical and more functionally limited. In addition, Ms. Groeneveld has an additional injury (labral tear) that has a significant likelihood of requiring surgical repair and a mild traumatic brain injury from which she has recovered.

[97] Taking all of the relevant factors from *Stapley* into account, I am satisfied that $110,000 is an appropriate award in these circumstances.

Special damages

[98] The parties agree that the plaintiff should be reimbursed for physiotherapy, kinesiology, chiropractic treatments, massage therapy, counselling, prescription medications and mileage. These special damages total $11,768.58.

[99] The plaintiff seeks an additional $504 for lawn-mowing services. Ms. Groeneveld hired someone to cut the lawn during the summer of 2020 when she lived in a house. She found it too difficult to cut the lawn herself because of her injuries. I accept that the lawn-mowing services were required because of her injuries from the accident, and she should be reimbursed for this expense.

[100] The total award for special damages shall be $12,272.58.

Future cost of care

[101] An award for future care costs is based on "what is reasonably necessary on the medical evidence to promote the mental and physical health of the plaintiff": *Milina v. Bartsch* (1985), 49 B.C.L.R. (2d) 33 at 78, 1985 CanLII 179 (S.C.), aff'd (1987), 49 B.C.L.R. (2d) 99 (C.A.).

[102] I accept that it is reasonably necessary to award damages for the cost of ongoing physiotherapy, massage and chiropractic treatments.

[103] Dr. Caillier recommended that the plaintiff have access to physiotherapy, massage therapy or chiropractic treatments two to four times per month to allow her to continue working in her physically demanding job.

[104] For her ongoing upper body symptoms, Ms. Groeneveld continues to attend physiotherapy once per month at a rate of $90/session; chiropractic once per month at a rate of $55/hour; and massage therapy once every month or two at a rate of $130/hour. On an annual basis, she incurs average annual treatment costs of $2910 for her injuries.

[105] Applying a present value multiplier to age 65 (her most likely retirement age) from CIVJI and the survival rates from Mr. Benning's report to the annual treatment costs, I find that $33,500 is a reasonable award for cost of future care.

Conclusion

[106] To summarize, subject to a deduction pursuant to s. 98 of the *Insurance (Vehicle) Act*, the defendant is liable to pay the following damages to Ms. Groeneveld:

Head of Damage	**Award**
Non-Pecuniary Damages	$110,000
Past Loss of Earning Capacity	$150,000
Future Loss of Earning Capacity	$300,000
Loss of housekeeping capacity	$0
Special Damages	$12,272.58
Future Cost of Care	$33,500
TOTAL	**$605,772.58**

[107] Ms. Groeneveld is entitled to pre-judgment interest on the award of special damages. Ms. Groeneveld is also entitled to her costs, subject to any offers or other matters that may require an adjustment to her costs entitlement. If the parties wish to address costs, the amount of the s. 98 deduction or pre-judgment interest on special damages, they may arrange with court scheduling in the next 30 days to make submissions before me for this purpose.

"Lamb J."