

**CITATION:** Chodha v. The Workplace Safety and Insurance Board, 2023 ONSC 6729  
**COURT FILE NO.:** CV-16-00559038  
CV-19-00630388  
**DATE:** 20231128

**ONTARIO SUPERIOR COURT OF JUSTICE**

**RE:** Pardeep Chodha, Plaintiff  
-and-  
The Workplace Safety and Insurance Board, Defendant

**BEFORE:** Robert Centa J.

**COUNSEL:** Pardeep Chodha, self-represented  
Erin Callery, for the defendant

**HEARD:** November 21, 2023

**ENDORSEMENT**

- [1] In 2016, Pardeep Chodha commenced an action against the Workplace Safety and Insurance Board. In 2019, Mr. Chodha commenced a second action against the WSIB. In each action, he seeks damages from WSIB for infringement of his rights under the “privacy act,” unlawful act conspiracy and conspiracy, violations of his rights under the *Canadian Charter of Rights and Freedoms*, “inducing breach of the plaintiff’s rights under the *Human Rights Code*,” breach of the plaintiff’s rights under the *Workplace Safety and Insurance Act, 1997* breach of the duty of “good faith in the course of the recovery from injuries and safe return to work for the plaintiff,” as well as aggravated and punitive damages.<sup>1</sup>
- [2] The defendant WSIB moves for summary judgment to dismiss the actions.
- [3] For the reasons that follow, I am satisfied that there are no genuine issues requiring a trial and that summary judgment is appropriate. First, some of Mr. Chodha’s claims cannot succeed as a matter of law. Second, Mr. Chodha was required to advance his best case and to ensure that the record contained all the evidence that he would present at trial. With respect to many of his claims, Mr. Chodha has not filed evidence to support his pleadings. Third, in the few instances where there is a dispute in the evidence, I am confident that I can do justice to the parties by weighing the evidence, evaluating the credibility of the

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<sup>1</sup> *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c.16, Sched. A

affiants, and drawing inferences from the evidence. In each case, I prefer the evidence of the WSIB, which is supported by contemporaneous notes and documents.

[4] A fair and just resolution of this case without a trial is possible. For the reasons that follow, I dismiss Mr. Chodha's actions.

### **The principles of summary judgment**

[5] Summary judgment is an important tool for enhancing access to justice where it provides a fair process that results in a just adjudication of disputes.<sup>2</sup> Used properly, it can achieve proportionate, timely, and cost-effective adjudication.

[6] On a motion for summary judgment, I am to:

- a. determine if there is a genuine issue requiring a trial based only on the evidence before me, without using the enhanced fact-finding powers under rule 20.04(2.1);
- b. if there appears to be a genuine issue requiring a trial, determine if the need for a trial could be avoided by using the enhanced powers under
  - i. rule 20.04(2.1), which allow me to weigh evidence, evaluate the credibility of a deponent, and draw any reasonable inference from the evidence; and
  - ii. under rule 20.04(2.2), which allows me to order that oral evidence be presented by one or more parties.<sup>3</sup>

[7] The Supreme Court of Canada emphasized that I must focus on whether the evidence before me permits a fair and just adjudication of the dispute and cautioned that judges should not use the enhanced powers where their use would be against the interests of justice. Paragraph 66 of *Hryniak* states:

On a motion for summary judgment under rule 20.04, the judge should first determine if there is a genuine issue requiring trial based only on the evidence before her, without using the new fact-finding powers. There will be no genuine issue requiring a trial if the summary judgment process provides her with the evidence required to fairly and justly adjudicate the dispute and is a timely, affordable and proportionate procedure, under Rule 20.04(2)(a). If there appears to be a genuine issue requiring a trial, she should then determine if the need for a trial can be avoided by using the new powers under Rules 20.04(2.1) and (2.2). She may, at her discretion, use those powers, provided that their use is not against the interest of justice. Their use will not be against the interest of justice if they

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<sup>2</sup> *Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, at paras. 4-6.

<sup>3</sup> *Royal Bank of Canada v. 1643937 Ontario Inc.*, 2021 ONCA 98, 154 O.R. (3d) 561, at para. 24.

will lead to a fair and just result and will serve the goals of timeliness, affordability and proportionality in light of the litigation as a whole.

- [8] On a motion for summary judgment, the court assumes that the parties have each advanced their best case and that the record contains all the evidence that would be led at trial. Each party is obliged to put their best foot forward. They are not permitted to sit back and suggest that they would call additional evidence at trial.<sup>4</sup>
- [9] I am able to reach a fair and just determination on the merits of the action on this motion for summary judgment. The process allows me to make the necessary findings of fact and apply the law to the facts. Deciding the merits of this case on a motion for summary judgment is a proportionate, more expeditious, and less expensive means to achieve a just result.
- [10] On a few points, it will be necessary for me to weigh the evidence, evaluate the credibility of a deponent, and draw reasonable inferences from the evidence. I am satisfied that it is not in the interest of justice that these powers, set out in rule 20.04(2.1), only be exercised at a trial.

### **The evidence on this motion**

- [11] Mr. Chodha filed two affidavits on this motion. The first 77 paragraphs of each motion are identical to each other, including exhibits. The affidavit filed with respect to the 2019 action has an additional 43 paragraphs that cover the period from November 2017 to December 2021.
- [12] The WSIB filed affidavits from Gina Graston, who supervised the case management team handling Mr. Chodha's claim, and Kent Glowinski, the director of the Privacy and FOI office.
- [13] Many of the facts are not in dispute between the parties. Where there is a difference, it often arises from certain conclusions that Mr. Chodha has drawn about the motives of other people. In my view, he appears to be mistaken in many of his inferences and conclusions, which do not appear to be borne out of the evidence.

### **Factual background**

- [14] On June 2, 2014, Mr. Chodha injured his back while working as a cabinetmaker with the Times Kitchen & Bath. He reported the claim to the WSIB on June 10, 2014. The WSIB accepted his claim and Mr. Chodha began to receive benefits under the *WSIA* in June 2014.

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<sup>4</sup> *Prism Resources Inc. v. Detour Gold Corp.*, 2022 ONCA 326, 162 O.R. (3d) 200, at para. 4; *Ntakos Estate v. Ntakos*, 2022 ONCA 301, 75 E.T.R. (4th) 167, at para. 38; *Salvatore v. Tommasini*, 2021 ONCA 691, at para. 17.

- [15] On or about July 30, 2014, Mr. Chodha's case manager lost an unencrypted USB storage device inside the WSIB offices. This USB storage device contained two documents that related to Mr. Chodha. Happily, these documents did not contain any personal contact or financial information about him. There is no evidence that anyone ever accessed the USB device or that the information on the device was disclosed to anyone who does not work for the WSIB. On August 7, 2014, the WSIB reported this incident to the Information and Privacy Commissioner, who was satisfied with the WSIB's actions and closed the file at the intake stage. The WSIB reported the incident to Mr. Chodha and the other affected workers.
- [16] Effective October 6, 2014, the WSIB discontinued loss of earnings benefits because Mr. Chodha's case manager at the WSIB determined that Mr. Chodha had stopped cooperating in his return-to-work process. As of October 27, 2014, the case manager concluded that Mr. Chodha had functionally recovered from his injuries and was able to return to work.
- [17] Mr. Chodha exercised his rights under the *WSIA* and successfully appealed the decision to terminate his benefits to the appeals division of the WSIB. The decision of the appeals resolution officer extended the payment of benefits to Mr. Chodha to November 19, 2014. Mr. Chodha exercised his right to appeal that decision to the Workplace Safety and Insurance Appeals Tribunal.
- [18] In August 2015, while that appeal was pending, Mr. Chodha hurt his back again while working for a different employer.
- [19] On November 29, 2017, Mr. Chodha won his WSIAT appeal, and the tribunal ordered the WSIB to pay full retroactive benefits to Mr. Chodha for the period from November 2014 to the date he returned to work in August 2015. Noting his subsequent injury, the tribunal also directed the WSIB to determine Mr. Chodha's ongoing health care and loss of earning benefits from 2015 onward.
- [20] To assess Mr. Chodha's entitlement to benefits after August 2015, the WSIB requested that Mr. Chodha provide income information for the period before and after his accidents. It appears that these requests were contentious, and the correspondence makes clear that Mr. Chodha refused to provide some of the information that the WSIB requested.
- [21] Mr. Chodha is continuing to receive some benefits from the WSIB. He is also pursuing his appeal rights to the WSIAT.
- [22] Against this factual backdrop, I will consider each of Mr. Chodha's pleaded causes of action to assess whether or not there is a genuine issue requiring a trial.

### **The exclusive jurisdiction of the WSIB**

- [23] In my view, Mr. Chodha's core complaint in each action is that the WSIB treated him unfairly while collecting and reviewing evidence in his case and in making the decisions about his entitlement to benefits and the appropriate level for those benefits. Indeed, Mr.

Chodha devoted almost the entirety of his oral submissions to these points. The essence of Mr. Chodha's complaints against the WSIB is that it did not treat him fairly.

[24] Although he characterizes these complaints as torts or breaches of the *Charter*, these complaints are about the decisions made and the process used by the WSIB in determining his entitlement to benefits. All of these decisions fall within the exclusive jurisdiction of the WSIB. Section 118 of the *WSIA* states:

118 (1) The Board has exclusive jurisdiction to examine, hear and decide all matters and questions arising under this Act, except where this Act provides otherwise.

(2) Without limiting the generality of subsection (1), the Board has exclusive jurisdiction to determine the following matters:

1. Whether an industry or a part, branch or department of an industry falls within a class or group of industries in Schedule 1 or in Schedule 2 and, if so, which one.
2. Whether personal injury or death has been caused by an accident.
3. Whether an accident arose out of and in the course of an employment by a Schedule 1 or Schedule 2 employer.
4. Whether a person is co-operating in reaching his or her maximum medical recovery, in returning to work or in the preparation and implementation of a labour market re-entry plan.
5. Whether an employer has fulfilled his, her or its obligations under the insurance plan to return a worker to work or re-employ the worker.
6. Whether a labour market re-entry plan for a person is to be prepared and implemented.
7. Whether loss of earnings has resulted from an injury.
8. Whether permanent impairment has resulted from an injury, and the degree of the impairment.
9. The amount of a person's average earnings and net average earnings.
10. Whether a person is a spouse, child or dependant of an injured worker for the purposes of the insurance plan.

(3) An action or decision of the Board under this Act is final and is not open to question or review in a court.<sup>5</sup>

[25] Mr. Chodha cannot circumvent the statutory scheme for granting benefits for workplace injuries by alleging bad faith and coupling his allegation with a claim for damages.<sup>6</sup> This is fatal to many of his allegations. I will now address each of his pleaded causes of action.

### **The breach of the privacy act**

[26] Mr. Chodha pleads that the WSIB is liable for damages for breach of the privacy act. Read generously, I interpret that to be a breach of the *Freedom of Information and Protection of Privacy Act*, which is the applicable privacy statute in Ontario.<sup>7</sup> In my view, there is no genuine issue requiring a trial with respect to this claim.

[27] There is one small factual dispute between the parties. Mr. Chodha's evidence is that the USB key that was lost contained saved recordings of telephone calls with his case manager. I do not think Mr. Chodha is correctly recalling what the operations manager said to him. The contemporaneous records of the WSIB clearly demonstrate that the only two documents on the USB key that related to Mr. Chodha are an Initial Case Assessment and Planning form, and a re-employment referral memo. There is no contemporaneous evidence to support Mr. Chodha's recollection of what he was told. If necessary, I would prefer the WSIB's evidence and can readily draw that conclusion without the need for live evidence.

[28] More importantly, even if the USB did contain a recording of a telephone call, that would still not create a genuine issue requiring a trial.

[29] FIPPA essentially deals with freedom of information and the protection of certain private information with respect to government and other public institutions. The Legislature did not create a statutory cause of action for a breach of FIPPA.<sup>8</sup>

[30] Even if an employee of the WSIB breached FIPPA by losing USB key, or committing some other breach of the FIPPA, the breach of a statute alone does not give rise to a cause of action. There is no tort for breach of a statutory duty.<sup>9</sup>

[31] Even if I consider the other torts that protect Mr. Chodha's privacy interests, there is no genuine issue requiring a trial. In *Jones v. Tsige*, the Court of Appeal for Ontario accepted Professor Prosser's four tort catalogue of privacy-related torts:

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<sup>5</sup> *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c 16, Sch A., s. 118; see also s. 123(1), which confers exclusive jurisdiction on WSIAT to hear appeals from final decisions of the WSIB.

<sup>6</sup> *Taylor v. Workplace Safety & Insurance Board*, 2018 ONCA 108, at paras. 8-9; *Pagourov v. Science Application International Corp.*, 2007 ONCA 745.

<sup>7</sup> R.S.O. 1990, c. F. 31 ("FIPPA"),

<sup>8</sup> *Singh-Boutilier v. Ontario College of Social Workers and Social Service Workers*, 2015 ONSC 5297, at para. 57.

<sup>9</sup> *Canada v. Saskatchewan Wheat Pool*, [1983] 1 S.C.R. 205.

[18] Professor Prosser's article picked up the threads of the American jurisprudence that had developed in the 70 years following the influential Warren and Brandeis article. Prosser argued that what had emerged from the hundreds of cases he canvassed was not one tort, but four, tied together by a common theme and name, but comprising different elements and protecting different interests. Prosser delineated a four-tort catalogue, summarized as follows, at p. 389:

1. Intrusion upon the plaintiff's seclusion or solitude, or into his private affairs.
2. Public disclosure of embarrassing private facts about the plaintiff.
3. Publicity which places the plaintiff in a false light in the public eye.
4. Appropriation, for the defendant's advantage, of the plaintiff's name or likeness.<sup>10</sup>

[32] In my view, there is no genuine issue requiring a trial in respect of any of these torts. There is no evidence to suggest that the WSIB intentionally lost the USB key, disclosed Mr. Chodha's personal information to a third party, publicized any aspect of Mr. Chodha's life, or caused any damage to him.<sup>11</sup> The absence of evidence on these points is fatal to Mr. Chodha's action for breach of privacy, regardless of how it is framed.

[33] There is no genuine issue requiring a trial regarding Mr. Chodha's claim for breach of privacy. I dismiss this portion of his claim.

### **Conspiracy**

[34] I find that there is no genuine issue requiring a trial regarding Mr. Chodha's claim for damages for conspiracy because Mr. Chodha has not provided any evidence to make out his claims of conspiracy.

[35] First, Mr. Chodha has provided no evidence that persuades me that the WSIB took any steps for the predominant purpose of harming him. This means there is no genuine issue requiring a trial for the claim of a predominant purpose conspiracy.<sup>12</sup>

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<sup>10</sup>2012 ONCA 32, 108 O.R. (3d) 241, citing William L. Prosser, "Privacy" (1960), 48 Cal. L. Rev. 383.

<sup>11</sup> *Jones* at para. 71; *Jane Doe 72511 v. N.M.*, 2018 ONSC 6607, at para. 99.

<sup>12</sup> *Canada Cement LaFarge Ltd. v. British Columbia Lightweight Aggregate Ltd.*, [1983] 1 S.C.R. 452 at p. 471-472; *Agribrands Purina Canada Inc. v. Kasamekas*, 2011 ONCA 460, 106 O.R. (3d) 427, at para. 24.

- [36] Second, there is no evidence that the WSIB or its employees engaged in unlawful activities, meaning a breach of a statute or tortious conduct.<sup>13</sup> The WSIB had the statutory authority to collect information from relevant parties, assess that information, and determine whether or not Mr. Chodha was entitled to benefits. The WSIB is required to collect and consider relevant information, even that information with which Mr. Chodha disagrees. It is entirely appropriate, and indeed necessary, for the WSIB to collect information from Mr. Chodha's employer in order to fulfill its statutory mandate. The fact that the WSIAT accepted Mr. Chodha's submissions on appeal is not evidence that the WSIB engaged in unlawful conduct.
- [37] There is no genuine issue requiring a trial regarding Mr. Chodha's claim of conspiracy. I dismiss this portion of his claim.

### **Breach of the Charter**

- [38] Mr. Chodha submits that the WSIB breached his rights under ss. 12 and 15 of the *Charter*.
- [39] First, I find that there is no genuine issue requiring a trial with respect to Mr. Chodha's claim that the WSIB breached s. 12 of the *Charter*, which reads "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment." Section 12 is mainly concerned with criminal and penal proceedings and its protections are not engaged in this case. For something to constitute punishment, the claimant must show that the state action:
- (1) . . . is a consequence of conviction that forms part of the arsenal of sanctions to which an accused may be liable in respect of a particular offence, and either (2) . . . is imposed in furtherance of the purpose and principles of sentencing, or (3) . . . has a significant impact on an offender's liberty or security interests: *R. v. Boudreault*, 2018 SCC 58, [2018] 3 S.C.R. 599, at para. 39.
- [40] For something to constitute "treatment" for the purposes of s. 12, there must be "some active state process in operation, involving an exercise of state control over the individual, in order for the state action in question" to constitute treatment within the meaning of s. 12.<sup>14</sup>
- [41] In my view, there is nothing about WSIB's interaction with Mr. Chodha that could amount to punishment or treatment. In my view, there is no genuine issue requiring a trial and I dismiss Mr. Chodha's claim that the WSIB breached his rights under s. 12 of the *Charter*.

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<sup>13</sup> *Agribrands*, at paras. 33 and 37

<sup>14</sup> *Canada (Minister of Employment & Immigration) v. Chiarelli*, [1992] 1 S.C.R. 711 at p. 735; *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519, at p. 610; *Canadian Doctors for Refugee Care v. Canada (Attorney General)*, 2014 FC 651, [2015] 2 F.C.R. 267, at paras. 580–583; *Sprague v. Her Majesty the Queen in right of Ontario*, 2020 ONSC 2335, 448 D.L.R. (4th) 415, (Div. Ct.), at paras. 52–53.



[42] Second, I find that there is no genuine issue requiring a trial with respect to Mr. Chodha's claim that the WSIB breached s. 15 of the *Charter*, which reads:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

[43] A claimant may challenge the extension of a benefit to some persons and not to others under s. 15(1) of the *Charter*. But in order to do so, the claimant must identify something in the legislation that (1) either draws a distinction on the basis of an enumerated or analogous ground, or has a disproportionate impact on the basis of an enumerated or analogous ground, and (2) imposes a burden or denies a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage.<sup>15</sup>

[44] Mr. Chodha has not identified any such legislative provision. He does not point to the operation or application of a particular law as disadvantaging him on a prohibited ground. There is no evidence that Mr. Chodha's rights under s. 15 of the *Charter* have been violated. In my view, there is no genuine issue requiring a trial and I dismiss Mr. Chodha's claim that the WSIB breached his s. 15 *Charter* rights.

### **Unlawful interference with economic interests**

[45] Mr. Chodha alleges that the WSIB interfered with his economic interests when it failed to intervene to resolve a dispute with his employer over unpaid wages under the *Employment Standards Act, 2000*, S.O. 2000, c. 41.

[46] The tort of unlawful interference with economic interests is established in circumstances where the defendant intended to harm the plaintiff's economic interests by means of an actionable civil wrong against a third party and the plaintiff suffered economic loss or harm.<sup>16</sup>

[47] None of these elements are present in this case. Moreover, the WSIB had no statutory jurisdiction to compel Mr. Chodha's employer to pay Mr. Chodha's wages in accordance with the *Employment Standards Act*. There is no genuine issue requiring a trial and I dismiss this element of Mr. Chodha's claim.

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<sup>15</sup> *Quebec (Attorney General) v. Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17, [2018] 1 S.C.R. 464, at para. 25.

<sup>16</sup> *A.I. Enterprises Ltd. v. Bram Enterprises Ltd.*, 2014 SCC 12, [2014] 1 S.C.R. 177, at paras. 5 and 23.

### **Breach of the WSIA**

- [48] I find that there is no genuine issue requiring a trial related to Mr. Chodha's claim for damages arising out of the WSIB's alleged violation of the *WSIA*.
- [49] Similar to the issue related to the breach of *FIPPA*, the legislature did not create a statutory cause of action for breach of the *WSIA*. Even if an employee of the WSIB breached the *WSIA*, the breach of a statute alone does not give rise to a cause of action. There is no tort for breach of a statutory duty.<sup>17</sup>
- [50] The WSIB, not the courts, has the exclusive jurisdiction to determine issues related to the benefits payable to injured workers. The legislature has created a comprehensive set of appeals for such decisions, which are also subject to judicial review.
- [51] The fact that the WSIAT allowed Mr. Chodha's appeal is evidence that the system is operating as it should. It is not evidence of wrongdoing. Moreover, if Mr. Chodha is attempting to make out the tort of misfeasance in public office, there is no evidence requiring a trial. The elements of that tort are set out in *Odhavji Estate v. Woodhouse*,

... the tort of misfeasance in a public office is an intentional tort whose distinguishing elements are twofold: (i) deliberate unlawful conduct in the exercise of public functions; and (ii) awareness that the conduct is unlawful and likely to injure the plaintiff. Alongside deliberate unlawful conduct and the requisite knowledge, a plaintiff must also prove the other requirements common to all torts. More specifically, the plaintiff must prove that the tortious conduct was the legal cause of his or her injuries, and that the injuries suffered are compensable in tort law.<sup>18</sup>

- [52] There is no evidence before me to make out that tort. Mr. Chodha has led no evidence to demonstrate that the WSIB acted in bad faith, outside their statutory authority, for an improper purpose or to injure him.
- [53] I find that there is no genuine issue requiring a trial and dismiss Mr. Chodha's claim for breach of the *WSIA*, including any claim for misfeasance of public office.

### **Intentional infliction of mental suffering**

- [54] Mr. Chodha claims for intentional infliction of mental suffering. To make out this cause of action Mr. Chodha must show:
- a. flagrant and outrageous conduct;

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<sup>17</sup> *Canada v. Saskatchewan Wheat Pool*, [1983] 1 S.C.R. 205.

<sup>18</sup> 2003 SCC 69, [2003] 3 S.C.R. 263, at para. 32.

- b. calculated to produce harm (meaning either the defendant desired to produce the consequences, or that the consequences were known by the actor to be substantially certain to follow); and
  - c. resulting in a visible and provable injury.<sup>19</sup>
- [55] There is no evidence to make out the high standard required of this intentional tort. Mr. Chodha has led no evidence that the WSIB intended or expected to inflict mental suffering on him. There is also no evidence that Mr. Chodha suffered a visible or provable injury.
- [56] I find that there is no genuine issue requiring a trial and dismiss Mr. Chodha's claim for intentional infliction of mental suffering.

### **Human Rights Code**

- [57] As I would dismiss all of the causes of action advanced by Mr. Chodha, he may not maintain an action based solely on an infringement under Part I of the *Human Rights Code*.<sup>20</sup>
- [58] In any event, Mr. Chodha has provided no evidence to substantiate his allegation that the WSIB, or any of its employees, discriminated against him contrary to the *Human Rights Code*.
- [59] There is no genuine issue requiring a trial and dismiss this claim.

### **Conclusion**

- [60] I find that there are no genuine issues requiring a trial in either action. Therefore, I dismiss both actions.
- [61] The WSIB requested costs in the amount of \$250.00 in each action.
- [62] Fixing costs is a discretionary decision under s. 131 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43. In exercising my discretion, I may consider the result in the proceeding, any offer to settle or to contribute made in writing, and the factors listed in rule 57.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194. These factors include but are not limited to: (i) the result in the proceeding; (ii) the experience of the lawyer for the party entitled to the costs as well as the rates charged and the hours spent by that lawyer; (iii) the amount of costs that an unsuccessful party could reasonably expect to pay in relation to the step in the proceeding for which costs are being fixed; (iv) the amount claimed and the amount recovered in the proceeding; (v) the complexity of the proceeding; (vi) the importance of the issues; and (vii) the conduct of any party that tended to shorten or lengthen

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<sup>19</sup> *Prinzo v. Baycrest Centre for Geriatric Care* (2002), 60 O.R. (3d) 474, at para. 48 (C.A.).

<sup>20</sup> *Human Rights Code*, R.S.O. 1990, c. H.19, s. 46.1(2)

unnecessarily the duration of the proceeding. Rule 57.01(1)(i) provides that the court may also consider “any other matter relevant to the question of costs.”

- [63] In exercising my discretion to fix costs, I must consider what is fair and reasonable for the unsuccessful party to pay in this proceeding and balance the compensation of the successful party with the goal of fostering access to justice.<sup>21</sup>
- [64] In my view, the WSIB is presumptively entitled to its cost of these two actions. It was entirely successful. I have no doubt that its actual costs far exceed the amount claimed. In my view, it is fair and reasonable for Mr. Chodha to pay the costs claimed by the WSIB.
- [65] For these reasons, I fix the costs of each action at \$250.00, inclusive of disbursements and Harmonized Sales Tax, and order Mr. Chodha to pay a total of \$500.00 to the WSIB within 30 days of the date of this order.

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Robert Centa J.

Date: November 28, 2023

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<sup>21</sup> *Boucher v. Public Accountants Council (Ontario)* (2004), 71 O.R. (3d) 291 (C.A.), at paras. 26 and 37.