

1993 CarswellOnt 4730
Ontario Insurance Commission

Parisien v. Royal Insurance Co. of Canada

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Mary Parisien, Applicant and Royal Insurance Company of Canada, Insurer

Palmer Arb.

Judgment: May 26, 1993

Docket: A-001978

Counsel: None given

Subject: Insurance

Headnote

Insurance

Palmer Arb.:

Issues:

1 The Applicant, Mary Parisien, was injured in a motor vehicle accident on July 4, 1990. She applied for and received accident benefits from the Insurer payable under Ontario Regulation 672 (the "*No-Fault Benefits Schedule*"), enacted under the *Insurance Act*, R.S.O. 1990, c. I.8.

2 After October 4, 1990, the Insurer stopped paying Ms. Parisien any weekly income benefits. The Applicant disputed the termination of these benefits.

3 The issues in this hearing were:

1. Is the Applicant entitled to further weekly income benefits after October 4, 1990 as a result of injuries she received in the July 4, 1990 motor vehicle accident?

2. What is the amount of weekly income benefit to which the Applicant is entitled?

4 The Applicant also claims interest on any outstanding amounts owing and her expenses incurred in the hearing.

Result:

5

1. The Applicant is entitled to weekly income benefits from October 5, 1990 and continuing.

2. The amount of weekly income benefit is \$185.60 per week.

3. The Applicant is entitled to interest pursuant to section 24(4) of the *No-Fault Benefits Schedule* and is granted two-thirds of her expenses of the arbitration.

Hearing:

6 The hearing was held at North York on February 22, 23, April 13, 14, 28 and 29, 1993, before me, K. Julaine Palmer, arbitrator.

7 Present at the Hearing:

Applicant:	Mary Anne Parisien
Applicant's	Joram Gold
Representative:	Barrister and Solicitor
Insurer's	Nestor Kostyniuk
Representative:	Barrister & Solicitor

8 Witnesses:

Dr. Ana Lulic-Hrvojic

Dr. Robert Cardish

Mary Anne Parisien

Dr. Fred Kroft

Dr. Klaus Kuch

Dr. David Lowe

Dr. Franklin Wayne Furlong

Raymond Parisien

Catherine L. Powell, M.S.W.

Lawrence Lander

Donald J. McDougall

Daniel M. Edwards, C.A.

9 The parties filed a medical brief and 42 other exhibits.

Evidence and Findings:

10 The Applicant was injured in a bizarre motor vehicle accident on July 4, 1990. A motor vehicle exiting from a parking lot without stopping came into contact with Mary Parisien's vehicle. The Applicant's vehicle sustained little physical damage, since she saw the vehicle approaching and almost succeeded in avoiding a collision.

11 However, when the Applicant stopped her vehicle, got out, and confronted the driver of the other car, he refused to wait for the police to arrive or to exchange particulars. Instead, he put his vehicle into motion and drove off, in the process knocking the Applicant to the ground, hitting her left leg and driving over her left foot. The actions of this driver affected the Applicant profoundly and caused her severe mental distress.

12 At the time of the accident, the Applicant was an independent taxicab driver by occupation. She began driving cab in 1985 after more than 10 years working at various accounting and office managerial jobs. In 1987, the Applicant

had the misfortune to be involved in a motor vehicle accident in which her vehicle was nearly pushed into a school bus full of children. The Applicant suffered severe emotional distress after that incident. She testified that she did not drive her cab for nearly two years.

13 The Applicant received psychiatric treatment and therapy after both the 1987 and 1990 accidents.

14 The Insurer took the position that the Applicant was not working much prior to the 1990 accident because of her emotional state. The Insurer contended that the Applicant returned to her pre-accident condition shortly after the accident and brought evidence of other stressors in the Applicant's life in 1990. It claimed these stressors were more significant than the accident.

1. Entitlement to Weekly Income Benefit after October 4, 1990:

15 In order for weekly income benefits to continue, I must determine whether after October 4, 1990 Mary Parisien continued to suffer a "substantial inability to perform the essential tasks of her occupation or employment" as a result of injuries from the motor vehicle accident of July 4, 1990. The Insurer does not dispute that the Applicant suffered physical injuries to her foot and leg in the accident, when her foot was run over and she was knocked to the ground. The issue is whether Mary Parisien was psychologically injured in the accident so that she was disabled after October 4, 1990.

16 I note that I am not charged with the responsibility of making a psychiatric diagnosis of Mary Parisien's mental illness. I must determine two things: 1/ whether the accident caused her psychological injuries and 2/ whether these injuries substantially prevent her from performing the essential tasks of a taxicab driver.

17 The essential tasks of a taxicab driver include the ability to drive a motor vehicle. Mary Parisien and her doctors all testified to her intense anxiety in operating a motor vehicle. She has been receiving specialized treatment for this difficulty since May 1992.

18 I heard lengthy evidence from five psychiatrists, a psychiatric social worker, and a physician at the hearing. I have reviewed the written reports of two other physicians, an occupational and rehabilitation specialist, and two additional psychiatrists.

19 The psychiatrists are divided in their opinion: some believe Mary Parisien suffers from post-traumatic stress disorder and others that she would properly be diagnosed as having a borderline personality disorder. Even those who would make the latter diagnosis believe that she has a driving phobia.

20 In my view, the evidence of Dr. Cardish and Dr. Kuch is more persuasive than the evidence of Dr. Furlong. Dr. Cardish diagnosed the Applicant to be suffering from post-traumatic stress disorder. In his report of January 12, 1993, Dr. Cardish cited the Diagnostic and Statistical Manual of Mental Disorders (3rd edition - revised) as stating: "the essential feature of this disorder is the development of characteristic symptoms following a psychologically distressing event that is outside the range of usual human experience." Dr. Cardish believes that the accident in which Mary Parisien was involved clearly fits this description.

The accident she experienced on July 4 1990 clearly fits DSM-III-R's description of a stressor. After a minor accident the driver of the other car came out of his car and admitted that he had no licence. When she indicated that she would call the police he got back in his car and drove away. He was wedged in by her car which meant that he had to back up to get around her car, at which point she was standing directly in his escape route. He drove directly at her, she was terrified and was convinced that she would be killed. She was in fact, struck on the left shin by the bumper of the car and a tire ran over her left foot. This is clearly an event that would be markedly distressing to almost anyone. Again DSM-III-R stresses that it is the "psychologically distressing" nature of the event rather than the extent of physical injury that is important. [report of January 12, 1993, Exhibit 1.8C, p.3]

21 In his report, Dr. Cardish outlines point by point the criteria of the DSM-III-R diagnosis of post-traumatic stress disorder and relates Mary Parisien's symptoms to these criteria. Dr. Cardish also comments critically on the diagnosis made in September 1990 at Toronto East General Hospital and upon Dr. Furlong's diagnosis and report.

22 Dr. Cardish recommended Mary Parisien be referred to the Anxiety Disorders Clinic of the Clarke Institute of Psychiatry. In her evidence, Catherine L. Powell, M.S.W., stated that it took six months for Mary Parisien's name to get to the top of the waiting list for the clinic. She was first seen by Dr. Klaus Kuch on May 13, 1992.

23 Dr. Kuch described the manner in which he diagnosed Mary Parisien to be suffering from post-traumatic stress disorder, with the assistance of a structured clinical interview. In his testimony, Dr. Kuch also stressed the fears Mary Parisien developed related to the potential recurrence of the assault. He described the triggering event as a complicated car accident and assault. Dr. Kuch testified that he believed the difference of opinion between himself and Dr. Furlong is the degree of the Applicant's co-morbidity. He testified that it is plain that the Applicant may also suffer from an eating disorder and transient mood disturbances.

24 In his report of January 28, 1993, Dr. Kuch clarified his opinion of Mary Parisien's difficulties:

I wish to state summarily, that Mrs. Parisien suffered psychological trauma with anxiety in the accident of 1987, that she recovered subsequently and that, to the best of my knowledge, she was well and gainfully employed as a cab driver until the accident of July 4th, 1990.

In this accident of July 4th, 1990, she again suffered psychological trauma as defined by DSM-III-R and developed symptoms of PTSD afterwards. These symptoms and the associated driving phobia have rendered her disabled since then until now, in particular in regards to her chosen occupation as a cab driver. - It is common that patients develop more severe and more persistent symptoms after repeated traumatisation of this kind, as I have had ample opportunity to observe in my research on posttraumatic [sic] stress disorder which has been published internationally.

Associated mood symptoms and fluctuating anxiety also interfere substantially with Mrs. Parisien's ability to enter other gainful occupations. As of now, I do not consider her employable in any occupation, this because she functions to a limited extent on some days and not at all on others. I have attended her regularly and have had sufficient opportunity to observe her progress in this regard.

25 In contrast to this diagnosis is that of Dr. M. Teplitsky when the Applicant was an in-patient at Toronto East General Hospital in August 1990. He diagnosed a borderline personality disorder.

26 Dr. F.W. Furlong saw Mary Parisien for an assessment requested by the Insurer. Dr. Furlong testified at the hearing. In his report of November 8, 1992, he gave his impressions based on a two-hour interview with Mary Parisien on November 5, 1992 and his review of some of her medical records.

In summary she has had a significant character problem with borderline and histrionic features. The incapacity to pin it down exactly is of no significance. She has had a variety of fears often based on gross imaginings. Following this accident she came to have some fears possibly of accidents and/or assault. [...] She develops and had a wide range of fears unrelated to the car accident.

I do not think she is deliberately for the most part misstating things. Rather she is very emotional and a creature of the moment given to hyperbole. [...]

If a person of reasonable character and cooperation were to comply with Dr. Kuch's program I would not anticipate any long term problem which would not resolve. [...] There is a lot of comorbidity that is other problems which have nothing to do with the car accident.

27 At the hearing, Dr. Furlong testified that, in his view, Mary Parisien's traffic phobia is a very small part of a number of problems. He believes the most reasonable diagnosis of her symptoms is borderline personality disorder with histrionic components. Dr. Furlong stated it was not inherently implausible that the Applicant had a driving phobia as a result of the July 4, 1990 accident. On cross-examination, he admitted that this case is complicated and that he is not sure the Applicant does not have post-traumatic stress disorder. Many of the features of PTSD overlap with anxiety problems. Dr. Furlong agreed the correct therapy is exposure and medications.

28 I accept the opinion of Dr. Cardish and Dr. Kuch that the Applicant has developed post-traumatic stress disorder as a result of the motor vehicle accident of July 4, 1990. I find that the Applicant has suffered, and continues to suffer, "substantial inability to perform the essential tasks of her occupation or employment" as a taxicab driver.

29 Dr. Kuch expressed his wish to commence fluvoxamine-luvox drug therapy with Mary Parisien and his opinion that a program of exposure therapy with a nurse-therapist would be helpful to her. Although the issue of rehabilitation was not squarely before me, it would seem this recommended treatment should proceed without further delay.

2. Amount of Weekly Income Benefit:

30 Section 12 (7) sets out the *rules* which apply to the calculation of an insured person's gross weekly income.

12(7) The following rules apply to the calculation of gross weekly income:

1. A person's gross weekly income shall be deemed to be the greatest of,
 - i. his or her average gross weekly income from his or her occupation or employment for the four weeks preceding the accident,
 - ii. his or her average gross weekly income from his or her occupation or employment for the fifty-two weeks preceding the accident,
 - iii. \$232.

[....]

3. Business expenses which cease as a result of the accident shall be deducted from a person's income from self-employment before calculating his or her gross weekly income.

31 In this case, I have very little evidence of the self-employment income of Mary Parisien in either the 4 or 52 weeks preceding the accident. No income tax returns, bank records or financial statements were presented. The Applicant testified she last filed an income tax return in 1984. The Applicant did submit taxicab "trip sheets" for August through November 1989 and January through June 1990. Only a summary tally sheet for December 1989 was provided. She also filed some expense documents and one bank book covering only a few months of the relevant period.

32 In September 1990, Mary Parisien submitted two forms to the Insurer: an Application for Accident Benefits and an Employer's Confirmation of Income. On both documents she signed her name following the declaration, "I certify in good faith that the information provided is true." What follows is the information she provided:

	<i>Gross weekly income last 4 weeks preceding accident</i>	<i>Gross income for 52 weeks preceding accident</i>					
	Week 1	Week 2	Week 3	Week 4	No. weeks worked	Gross income	
<i>Salary</i>	1182.50	1162.70	1134.30	1232.00			
<i>Tips</i>	120.00	115.00	110.00	125.00			
<i>Other</i>							

*monetary
compensation
TOTAL*

1302.50

1277.70 1244.30 1357.00

33 Although the figures in the row entitled "Salary" are headed "gross weekly income last 4 weeks preceding accident", in my view it is more accurate to express the figures, in the case of Mary Parisien, as representing her gross weekly *revenues* for those four weeks.

34 According to Lawrence Lander, the adjuster, who testified at the hearing, the Applicant gave him taxicab "trip sheets" for 11 days: Sunday, June 3, 1990 to Wednesday, June 13, 1990, inclusive. Copies of these trip sheets were filed at the hearing. The trip sheets for these days record only one column of figures, the cash fares received by the Applicant. (The amount of tips received is not shown on these sheets, unlike other sheets later produced for 1989, where two columns of figures were set out.) The adjuster testified that he date-stamped the application the day he received it: September 25, 1990.

35 The adjuster reported to the Insurer on October 4, 1990. A copy of his report was filed at the hearing. In that letter, the adjuster stated, "I refer you to the copies of the 'trip sheets' as supplied by Ms. Parisien. These are for a 2 week period in June 1990. She cannot locate her trip sheets for the 2 week period immediately prior to the accident."

36 Later in the fall of 1990, the Applicant requested that the adjuster return her original trip sheets. He did that, he testified, together with a covering memo dated December 13, 1990. The memo stated: "I have yours of Dec.5/90. Sorry I forgot to return your trip-sheets...these are now attached." In the course of his testimony, the adjuster discovered an original trip sheet dated June 5, 1990 still in his file. This was marked Exhibit 38.

37 The Applicant testified at the hearing that she had provided more than 11 days' trip sheets to the adjuster. She stated she did not know the exact number of days, nor how many days she drove her taxicab in June 1990, although she believed she worked every day that month. The Applicant testified she never received the December 13, 1990 memorandum from the adjuster returning the original trip sheets. She admitted she never sent any expense documents to the adjuster.

38 I find that the Applicant is mistaken in her recollection that she provided more trip sheets to the adjuster. Although I accept that it is possible that the adjuster lost additional trip sheets originally provided to him, on the evidence I heard, it is more probable that the adjuster copied the documents provided to him, dictated a report setting out the facts to his principals and put the original trip sheets back into his file. Later, after the Applicant requested the return of her original documents, I find he returned them, except for the June 5, 1990 sheet, which inadvertently remained in his file until the hearing. Where the evidence of the Applicant and the adjuster conflict with respect to this issue, I accept the adjuster's evidence.

39 The Applicant testified that she was admitted to the psychiatric ward of Toronto East General Hospital on August 1, 1990 with suicidal ideation and remained there until she discharged herself on September 11, 1990.

40 According to a nurse's notes made early in the morning of August 2, 1990, Mary Parisien's house was being "repossessed" the next day. Although the Applicant flatly denied at the hearing that she was suffering any stress whatsoever because of the mortgagee's sale proceedings against her, it is clear from the hospital and other records that this was not the case. I find that Mary Parisien was under emotional stress because of the actions of the mortgage holder.

41 It fell to the Applicant's siblings to remove her belongings from her home. The Applicant testified that many of her things are still in boxes at storage sites and several siblings' homes, which makes it more difficult to collect her business records.

42 Perhaps because of these difficulties, I conclude that the Applicant has fallen prey to the temptation of creating documents to fill in the gaps in her trip sheets for the year prior to the accident. Although she vehemently denied that

she fabricated any of the trip sheets produced at the hearing, I am unable to find that this is the truth. In coming to this conclusion, I rely heavily on the expert opinion of the forensic expert engaged by the Insurer.

43 Daniel M. Edwards, C.A., forensic accountant, testified at the hearing and filed his report. Mr. Edwards' expertise as a forensic accountant was not challenged by the Applicant; neither were his factual conclusions, that some numbers originally written on the trip sheets had been erased and others substituted. (The Applicant, however, offered a different explanation for the erasures.) Mr. Edwards concluded that the trip sheets for August 17, August 20 to 25, October 1, 1989, and all the original 1990 trip sheets he examined were fabricated, probably after the accident.

44 All of the trip sheets were completed in pencil. Mr. Edwards was concerned about the fact that almost every sheet from October and November 1989 had odometer readings which had been erased. From the odometer reading recorded on the repair invoice for her vehicle dated October 6, 1989, and the original pencil "impressions" of the odometer readings on the October 5, 1989 trip sheet, Mr. Edwards concluded that the original odometer readings on the 1989 sheets were accurate. This raised his level of concern whether sheets without an impression of an odometer reading represented genuine trips.

45 Mr. Edwards observed that the trip sheets for October 1, August 17, 20 to 25, 1989 and all the 1990 sheets bore no odometer readings. Those sheets were also cleaner and whiter than the other 1989 sheets. In addition, those sheets, although at first glance appearing to have been printed in a manner identical to the other 1989 sheets, had a narrower top margin of 0.9 cm, not 1.4 cm.

46 Mr. Edwards noted that the trip sheet for Saturday, September 30, 1989 closed at an odometer reading of 34739, before the reading was erased. The odometer reading at the opening of the day on October 2, 1989 read 34739 before it was erased. He concluded that it was, therefore, impossible that the taxicab took the 15 trips shown on the Sunday, October 1, 1989 trip sheet. In addition, Mr. Edwards observed that the October 1, 1989 sheet is a cleaner, whiter page with a narrower top margin, bearing no odometer readings or erased impressions. This evidence was not discredited whatsoever on cross-examination, nor was a different interpretation offered by the Applicant or her witnesses.

47 Mr. Edwards also expressed the opinion that additions were made to many trip sheets — representing trips never taken. He painstakingly analyzed the data on the two trip sheets dated August 5, 1989 and concluded that the Applicant drove 30 trips that day and collected \$170 in fares, excluding tips. He stated his opinion that later another 11 trips were added to the second sheet and the figures in the "meter trips" and "meter units" columns were changed to add \$114.25 in additional fares. I accept his analysis and conclusion that the 11 additional trips were fictitious.

48 Mr. Edwards did not perform a similar exhaustive analysis on each of the trip sheets for 1989. The fact that original meter readings were erased and other numbers inserted on the sheets made such analysis extremely difficult. His conclusion, however, was that it was quite likely that the trip sheets from August to November 1989 submitted by the Applicant are combinations of originally legitimate trips taken to which are added fictitious trips. This renders the sheets unreliable as proof of Mary Parisien's gross revenue.

49 The Applicant attempted to explain the erasures and discrepancies by stating that frequently, after completing her driving for the day, she would change her mind and return to her cab and drive some more, if for example, she could not sleep. She stated that some days she would quit early to work on her house, then change her mind and do more driving. She stated that she was too busy working on her house in 1990 to record odometer readings on her run sheets. She did not explain why the odometer readings for 1989 had been erased, except to state that she kept odometer readings only for gasoline mileage purposes.

50 After careful scrutiny, I have concluded that, in the four months of trip sheets from August until November 30, 1989, every trip sheet with a 1.4 cm top margin appears to have the meter units or meter trips altered in some manner. Accepting the Applicant's explanation of these alterations, would mean that on no day did the Applicant leave her car and quit for the day without returning sometime later. But that was not her testimony.

51 The converse also appears to be true — sheets with a narrower top margin appear to have few or no alterations in the meter units/trips columns. If Mr. Edwards' analysis is correct, other sheets have been inserted, such as November 25 and 26, 1989. Although I accept that the Applicant may have broken her day on many occasions, causing her to repeat her meter calculations, I am unable to accept her explanation for erasures on every sheet with a 1.4 cm top margin. The Applicant testified she stopped making odometer readings in 1990 because she was too busy working on her house. Even accepting that testimony does not explain why every odometer reading from four months of 1989 trip sheets was erased.

52 The Applicant is entitled to base her claim for weekly income benefits on either the 4 or 52 week period immediately preceding the accident, whichever is more advantageous. She has failed to convince me that the evidence she has produced of her revenues from August 1, 1989 to May 22, 1990 is worthy of belief. Moreover, I am unable to express any view as to whether the trip sheets from June 3 to 13, 1990 are accurate representations of the Applicant's earnings in that 11 day period. Only reduced photocopies of those documents were provided at the hearing. Any erased, original pencil impressions on the June 1990 trip sheets do not appear on these photocopies. Because of the many erasures, additions, and recalculations on the 1989 and early 1990 trip sheets, I cannot find these photocopies to be reliable, even as copies.

53 The Applicant claims she never received the original documents back from the adjuster. I find it is more probable that she did get these sheets back, but then lost them sometime after December 13, 1990.

54 I cannot, in this case, extrapolate revenues from the 11 days' sheets presented to obtain four weeks' worth of revenues. There was a wide fluctuation in the Applicant's daily revenues and no credible evidence of the number of days worked in those four weeks. I am further unable to base my findings as to the Applicant's revenues in the four weeks preceding the accident on her original application and employers' confirmation of income. There is no reasonable, reliable corroboration of those figures.

55 Therefore, I find that the Applicant has failed to establish that her average gross weekly income from her occupation or employment for the 4 or 52 weeks preceding the accident exceeded \$232.00. Accordingly, I find that the Applicant is entitled to ongoing minimum weekly income benefits of \$185.60 each week, except the first week after the accident. (To June 13, 1993, I calculate this entitlement to be \$28,211.20 for 152 weeks, less \$7,371.42 in weekly benefits already paid. The net amount is thus \$20,839.78). The Applicant is also entitled to interest on overdue weekly income benefits, computed in accordance with the provisions of section 24(4) of the *No-Fault Benefits Schedule*.

Expenses:

56 The Applicant seeks an award of the expenses she has incurred in this arbitration. An award for expenses may be made under section 282(11) of the *Insurance Act*, which provides as follows:

The arbitrator may award to the insured person such expenses incurred in respect of an arbitration proceeding as may be prescribed in the regulations to the maximum set out in the regulations.

57 The prescribed expenses and amounts are set out in Schedule 1 of the Dispute Resolution Practice Code and in Ontario Regulation 664 (R.R.O. 1990).

58 In the *Ralph McCormick v. Economical Mutual Insurance Company* case (O.I.C. File No. A-000139, dated October 2, 1991), arbitrator Susan Naylor made the following comments about expenses, with which I agree:

The discretion to award expenses should be exercised, having regard to the intent and purpose of the legislative scheme. The arbitration process has been established under the Insurance Act, as amended, in order to facilitate applicants' access to relatively inexpensive, speedy and informal adjudication of disputes regarding no-fault benefits. The discretion to award expenses should be exercised in accordance with this objective, having regard to the individual circumstances of each case.

Accordingly, it is appropriate to award an applicant his or her expenses, unless, in the circumstances of the particular case, it is determined that the application for appointment of an arbitrator was manifestly frivolous or vexatious, or that the applicant's conduct unreasonably prolonged the proceedings.

59 The Director of Arbitrations approved this statement of the principles guiding an award of expenses in the appeal decision in *Vito Luigi Calogero v. The Co-Operators General Insurance Company* (O.I.C. File No. P-000251, issued February 13, 1992).

60 In the *McCormick* case, Arbitrator Naylor did not specifically address the question of fraud by an applicant. It is certainly, however, within the spirit of the *McCormick* decision and the *No-Fault Benefits Schedule* itself to deny an applicant his or her expenses in such a case.

61 I have done so previously in the *Marcel Richardson v. Royal Insurance Company of Canada* case (O.I.C. File No. A-001141, dated November 3, 1992), where the Applicant attempted to perpetrate a significant fraud. There, the Applicant not only worked while collecting weekly income benefits from the Insurer, but when he was caught, he denied that the evidence presented by the insurance company was factual. I also denied an applicant expenses in the *Isaiah Alleyne v. Royal Insurance Company of Canada* case (O.I.C. File No. A-001107, dated February 18, 1993) and in the *Allan Wells v. Axa Insurance (Canada)* case (O.I.C. File No. A-001030, dated April 15, 1993) because of fraud.

62 In none of the three cases cited above was there any suggestion of mental or psychological injury to the applicant as a result of the motor vehicle accident. Only in the *Richardson* case was the applicant entitled to any further weekly income benefits.

63 In this case, however, Mary Parisien will receive more than two and a half years of weekly income benefits, plus significant interest payments from the Insurer, after receiving only three months of weekly income benefits in the summer of 1990.

64 In this case, I found that the Applicant fabricated some trip sheets to provide a continuous written record of her revenues and padded originally legitimate trip sheets to increase the amount of weekly income benefit which might be awarded to her. I have been unable to express any view of the records the Applicant produced for the four weeks immediately preceding the accident, firstly because she submitted only 11 days of trip sheets and, secondly, because only photocopies of these sheets were available. Following the testimony of Mr. Daniel Edwards, the expert forensic accountant, whose findings I largely adopted, I was unable to conclude that the remaining original trip sheets constituted reliable evidence of the Applicant's pre-accident earnings.

65 I am troubled by the Applicant's role in fabricating these documents. The fabrications may have been carried out as late as January 1993, because the documents were not made available to the Insurer until that time. From the testimony and notes of one of the Applicant's therapists, Catherine L. Powell, M.S.W., I learned that in January 1993, Mary Parisien's production of back "income tax returns", "run sheets", and organizing and breaking down "her expenses" was consuming a considerable amount of the Applicant's time.

66 I am reluctant to entirely deprive the Applicant of expenses because her injuries in the motor vehicle accident of July 4, 1990 were psychological or mental and because, in my view, a nexus may exist between the denial of continuing weekly income benefits by the Insurer and the Applicant's perceived need to create a complete set of trip sheets. Since October 1990, the Applicant has received no weekly income benefits from the Insurer, although I find her to be entitled to such benefits. She has been obliged to apply for mediation and arbitration of her claim and take part in a lengthy hearing.

67 However, I do not endorse the Applicant's fabrication of evidence and condemn her reluctance to admit her role in this scheme. Accordingly, I grant the Applicant two-thirds of the expenses that she might otherwise have received from the Insurer. I remain seized of this matter if the parties are unable to agree on the amount of expenses; in that event, either party may apply for assessment of the expenses before me.

Order:

68

1. The Applicant is entitled to weekly income benefits from October 5, 1990 and continuing.
2. The amount of weekly income benefits is \$185.60 per week.
3. The Applicant is entitled to interest pursuant to section 24(4) of the *No-Fault Benefits Schedule* and is granted two-thirds of her expenses of the arbitration.

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