



NOVA SCOTIA COURT OF APPEAL

**BETWEEN:**

ESTATE OF RAYMOND J. McCORMICK )

Appellant )

- and - )

BLAIR T. LANDRY and )

DEBRA ANNE (CHIASSON) LANDRY )

Respondents )

REASONS  
FOR  
JUDGMENT  
BY:

CLARKE, C.J.N.S.  
(Orally)

The reasons for judgment of the Court were delivered orally by:

**CLARKE, C.J.N.S.:**

The respondent Debra Anne Landry was injured in a motor vehicle accident on June 9, 1993. The appellant admitted liability.

Following a trial, Justice Edwards assessed damages in his decision delivered January 27, 1997. The order resulting therefrom dated February 17, 1997 awarded the respondents a total of \$143,158.74 based on the following distribution.

General Damages . . . . .	\$ 38,000.00
Past Loss of Income . . . . .	20,936.00
Diminution of Future Income . . . . .	60,000.00
Special Damages . . . . .	1,269.00
Quantum Meruit . . . . .	5,000.00
Costs . . . . .	8,135.00
Interest on General Damages . . . . .	3,902.25
Interest on Loss of Income . . . . .	1,899.42
Interest on Special Damages . . . . .	230.32
Disbursements . . . . .	<u>3,786.75</u>
TOTAL . . . . .	\$143,158.74

The appellant appeals from each of the several awards made by the trial judge. The appellant contends, as it states in its notice of appeal, that the trial judge “erred in law with respect to his decision on the amount of damages awarded to the Respondents ... and his decision is contrary to the law and not in conformity with the weight and preponderance of the evidence.”

After reviewing and carefully studying the record and considering the submissions of all counsel, we have concluded that there was sufficient evidence before Justice Edwards to make the findings of fact, credibility and the resulting awards which he did. In the absence of substantial error which affected his assessment of the facts or his application of the law, it is not the function of this Court to intervene.

There are numerous authorities to this effect consistent with and more recent than the oft quoted **Stein v. The Ship “Kathy K”**, [1976] 2 S.C.R. 802, at pp. 806-8. Examples include **Toneguzzo-Norvell (Guardian *ad litem* of) v. Burnaby Hospital**, [1994] 1 S.C.R. 114, McLachlin, J. At p. 121; **Cole et al v. Cole Estate** (1994), 131 N.S.R. (2d) 296, Roscoe, J.A. at p. 300; **Dillon v. Kelly** (1996), 150 N.S.R. (2d) 102, Pugsley, J.A. at p. 111 para. 57.

Accordingly the appeal is dismissed. The respondents are awarded costs on appeal in one bill of \$2,500.00 plus their disbursements.

Clarke, C.J.N.S.

Concurred in:

Hart, J.A.

Pugsley, J.A.