

**NOVA SCOTIA COURT OF APPEAL**  
**Citation: *Iannetti v. Poulain*, 2016 NSCA 93**

**Date:** 20161221  
**Docket:** CA 445779  
**Registry:** Halifax

**Between:**

David J. Iannetti

Appellant

v.

George Poulain

Respondent

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**Judge:** The Honourable Justice David P.S. Farrar  
**Appeal Heard:** **September** 14, 2016, in Halifax, Nova Scotia  
**Subject:** **Insurance Law. Solicitor's Negligence. Causation. Section B Benefits.**

**Summary:** The appellant, David Iannetti, is a solicitor practicing in Sydney, Nova Scotia. The respondent, George Poulain, was injured when he was a passenger in a motor vehicle that was involved in an accident on June 6, 2001. The trial judge found that Mr. Iannetti was negligent in failing to provide advice to Mr. Poulain with respect to his ability to claim Section B benefits under the provisions of a standard Nova Scotia motor vehicle policy beyond two years. As a result of his advice, Mr. Poulain settled with the Section B insurer and signed a release. He then settled his claim against the tortfeasor. After settling the tortfeasor claim he commenced action against Mr. Iannetti for damages for loss of his Section B benefits beyond two years. The trial judge found in favour of Mr. Poulain and awarded damages of approximately

\$113,000.

Mr. Iannetti appeals, acknowledging that he was negligent in the advice he gave to Mr. Poulain but arguing that Mr. Poulain did not suffer any loss as a result of that negligent advice. He also argued that even if causation was found, the trial judge erred in calculating damages to age 84, Mr. Poulain's alleged life expectancy.

Finally, Mr. Iannetti argued that Mr. Poulain was never entitled to Section B benefits in the first place as he did not fulfil the statutory pre-conditions to receiving those benefits.

- Issues:**
- (1) Did the negligence of Mr. Iannetti cause any loss to Mr. Poulain?
  - (2) Did the trial judge err in the calculation of damages?

**Result:**

Appeal allowed.

The trial judge erred in finding that the negligence of Mr. Iannetti caused a loss to Mr. Poulain. First, Mr. Poulain failed to establish that he suffered any reduction in his claim against the tortfeasor by signing a release of the Section B claim; and secondly, Mr. Poulain was never entitled to Section B benefits in the first place. He failed to establish that he satisfied the statutory requirements for benefits.

The trial judge also erred in his calculation of damages. There was no evidence before him to establish Mr. Poulain's actuarial date of death was age 84. Further, the Statement of Claim only claimed damages to age 65.

*This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 21 pages.*