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Clarifying catastrophic impairment designations



PERSONAL INJURY

Insurers, take note: any Glasgow Coma Scale (GCS) score of 9 or less following a motor vehicle accident will lead to a “catastrophic impairment” designation whenever there is any evidence of brain impairment, Toronto plaintiff’s personal injury lawyer [Darcy Merkur](#) writes in *Lawyers Weekly*.

“A documented ‘brain injury’ is not required and it does not matter if the claimant made a great recovery,” Merkur writes in the article.

“Yet again a key decision has been rendered confirming that any post-motor vehicle accident GCS score of 9 or less arising as a result of a brain impairment qualifies as a catastrophic impairment (CAT) within the meaning of the Ontario Statutory Accident Benefits Schedule, even where the score is taken at hospital four days later and while the patient is on medication,” writes Merkur, partner with [Thomson Rogers](#).

The CAT designation is significant as it allows a claimant to potentially access an additional approximately \$2-million in no-fault accident benefits if needed for their care and rehabilitation, the article says.

Merkur refers to *Hodges v. Security National Insurance Co.*, an FSCO appeal decision released Feb. 22, where director’s delegate Lawrence Blackman upheld the original FSCO decision and accepted the evidence of Dr. Harold Becker that indeed the claimant had suffered a catastrophic impairment

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based on a reduced GCS score.

In the decision, Blackman provides an extremely useful and comprehensive summary of GCS-related CAT decisions, writes Merkur.

“Plaintiff’s personal injury lawyers hope that this decision will serve to prevent insurers from being able to delay their CAT decision until they have received every possible hospital and ambulance report, since evidence of a ‘brain injury’ is now irrelevant,” the article says.

“It is also hoped that the decision will serve to stop insurer examiners from denying CAT designations where a brain impairment may be influenced by alcohol and/or drugs or medication.”



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