

Case Name:  
**Zurich Insurance Co. v. Chubb Insurance Co. of Canada**

**Zurich Insurance Company**  
v.  
**Chubb Insurance Company of Canada**

[2014] S.C.C.A. No. 325

[2014] C.S.C.R. no 325

File No.: 36002

Supreme Court of Canada

Record created: August 13, 2014.

Record updated: April 17, 2015.

**Appeal From:**

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

**Status:**

Appeal heard and allowed with costs April 17, 2015. See [2015] S.C.J. No. 19 in the SCJ database for the full text of the reasons.

**Catchwords:**

*Insurance -- Liability insurance -- Motor vehicle liability policy -- Rented vehicle -- Statutory Accident Benefits -- "Pay first, dispute later" rule -- Nexus between claimant and insurer -- Insurance Act, R.S.O. 1990, s. 268 -- Disputes Between Insurers, O. Reg. 283/95, Claimant declined optional motor vehicle liability policy when renting vehicle -- Claimant injured in single-vehicle accident involving rental vehicle -- Claimant applied to motor vehicle liability insurer for Statutory Accident Benefits -- Insurer refused to provide benefits -- Whether Chubb is an "insurer" for the purposes of s. 268 of the Insurance Act and Ontario Regulation 283/95 -- Disputes Between Insurers -- Whether, where there is a nexus between an insurer and a motor vehicle that gives rise to an accident benefits claim, an insurer can ignore the obligations imposed by the disputes between insurers regulation by unilaterally determining it is not an insurer for that purpose.*

**Case Summary:**

On September 23, 2006, Ms. Singh was injured in a single-vehicle accident while driving a vehicle rented from Wheels 4 Rent. Despite having declined the opportunity to purchase an optional death and dismemberment policy offered by Chubb Insurance Company of Canada, she submitted an application for Statutory Accident Benefits to Chubb. It declined benefits on the basis that the optional policy was not a motor vehicle policy, and it had been declined. Chubb argued that the Statutory Accident Benefits scheme did not apply because it was not an "insurer" under the Insurance Act, R.S.O. 1990, c. I.8. Eventually, she received benefits from Zurich Insurance Company, which insured Wheels 4 Rent's rental vehicles pursuant to a "motor vehicle liability policy". Zurich administered the claim on a "without prejudice" basis, arguing that Chubb was the first insurer and should have paid first.

The Arbitrator chosen by Zurich and Chubb determined, based on agreed facts, that Chubb was not an insurer for the purposes of the Act and the Regulation because it had not issued a "motor vehicle liability policy" to Wheels 4 Rent or Ms. Singh. Under the arbitration agreement, that meant that Chubb was not obligated to pay her benefits under the "pay first, dispute later" rules. The applications judge allowed an appeal on the grounds that Chubb was an "insurer" under the statutory regime because its policy was a "motor vehicle liability policy" and there was sufficient nexus between Chubb and Ms. Singh to require the payment of Statutory Accident Benefits. A majority of the Court of Appeal allowed a further appeal.

**Counsel:**

Erik K. Grossman (Zarek, Taylor, Grossman, Hanrahan LLP), for the motion.

George Kanellakos (Blouin, Dunn LLP), contra.

At hearing of appeal:

Eric K. Grossman, Michael Warfe and Kate M. MacLeod for the appellant.

Eugene Meehan, Q.C. and George Kanellakos for the respondent.

**Chronology:**

Application for leave to appeal:

FILED: August 13, 2014.

SUBMITTED TO THE COURT: October 27, 2014.

GRANTED WITH COSTS: November 27, 2014 (without reasons).

Before: LeBel, Karakatsanis and Gascon JJ.

The application for leave to appeal is granted with costs in the cause.

Notice of appeal filed December 23, 2014. Appeal not yet inscribed for hearing.  
Order filed January 12, 2015. Before: McLachlin C.J.

IT IS HEREBY ORDERED THAT:

The appellant's record, factum and book of authorities The appellant's record, factum and book of authorities shall be served and filed on or before February 12, 2015.

Any person wishing to intervene in this appeal under Rule 55 of the Rules of the Supreme Court of Canada shall serve and file a motion for leave to intervene on or before March 5, 2015.

The appellant and respondent shall serve and file their responses, if any, to the motions for leave to intervene on or before March 9, 2015.

Replies to any responses to the motions for leave to intervene shall be served and filed on or before March 11, 2015.

The respondent's record, factum and book of authorities shall be served and filed on or before March 31, 2015.

Any interveners granted leave to intervene under Rule 59 of the Rules of the Supreme Court of Canada shall serve and file their factum and book of authorities on or before April 2, 2015.

Appeal:

HEARD AND ALLOWED WITH COSTS: April 17, 2015. See [2015] S.C.J. No. 19 in the SCJ database for the full text of the reasons.

Present: Abella, Rothstein, Cromwell, Karakatsanis, Wagner, Gascon and Coté JJ.

**Procedural History:**

Judgment at first instance: Application allowed; Arbitrator's decision set aside; matter remitted back to Arbitrator to determine remaining issues on priority dispute arbitration.

Ontario Superior Court of Justice (Goldstein J.), April 3, 2013.

2012 ONSC 6363.

Judgment on appeal: Appeal allowed.

Court of Appeal for Ontario (Juriansz [dissenting], Pepall, Pardu JJ.A.), May 15, 2014.

2014 ONCA 400; [2014] O.J. No. 2330.

---- End of Request ----

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