

Case Name:

Walker v. Sun Shelters Industries Inc.

Between
Marie Walker and Albert Walker, Plaintiffs, and
Sun Shelters Industries Inc., Defendant

[2006] O.J. No. 2023

Court File No. 2976/01

Ontario Superior Court of Justice
Brampton, Ontario

N.M. Mossip J.

Oral judgment: March 30, 2006.

(8 paras.)

Damages — General damages — For personal injuries — Categories of — Loss of income — Assessment of damages incurred by the plaintiff after she slipped and fell in a parking lot owned by the defendant — Plaintiff awarded general damages of \$100,000, lost wages of \$4,334, and \$1,593 for a subrogated health insurance claim — Plaintiff's husband awarded \$20,000 for loss of guidance, care and companionship of the plaintiff

Statutes, Regulations and Rules Cited:

Family Law Act

Counsel:

S. Abraham Counsel for the Plaintiffs.

1 N.M. MOSSIP J. (orally):— This is an assessment of damages hearing. The Defendant, **Sun Shelters** Industries Inc. is the only defendant that my judgment will be against, the Plaintiffs, having settled the claim against the other Defendants prior to this hearing.

2 This hearing proceeded in an exemplary manner, and counsel, no doubt with the help of his able assistants at counsel table, has presented a textbook case on a civil trial in my view. Counsel, even though unopposed, was thorough, organized and completely fair in the presentation of this case.

3 There is no question of liability. Not only was the issue of liability not defended, but on the evidence at trial, it is clear that the parking lot was completely treacherous and unfit for use by pedestrians who clearly were using it that day. There was apparently no efforts to make the parking lot safe even during the time the **Walkers** were in the movie with their grandchildren, which would have been at least a couple of hours. I accept that there was no sanding or salting before the **Walkers** went into the movie and none when they came out. No amount of care by Mrs. **Walker** could likely have prevented her fall. It is surprising there were not more people

injured that day, perhaps there were.

4 Mrs. Walker's fall was horrific. Her head bounced off the pavement twice. She was stunned and suffered immediate effects from this fall. The injuries described to have occurred to her are believable and completely understandable even without the medical evidence. There were three medical reports filed with this court and a summary prepared by counsel which was extremely helpful. Two of the reports were by experts in the area of neurology.

5 There is no question that Mrs. Walker's injuries at the time of the fall and her permanent injuries subsequent are directly related to her fall and therefore to the negligence of the Defendant, **Sun Shelters** Industry Inc.

6 The medical evidence is conclusive and entitles the Plaintiffs to substantial damages for the injuries suffered by Mrs. **Walker**. The anecdotal evidence given by the husband and two of the children brings home squarely to the court the personal and emotional impact on this lovely family of such a tragedy. Mrs. **Walker** was the linchpin who kept the home revolving around a close and wonderful family. Everyone is still clearly supportive and loving and making the best of the circumstances that have befallen them. They are all to be commended for that.

7 I have been given case law which clearly supports the amount of damages sought by the Plaintiffs. And I find in all of the circumstances that the Plaintiffs are entitled to those damages.

8 Judgment to go to the Plaintiffs as follows:

1. To the Plaintiff, Mrs. **Walker**, the sum of \$100,000.00 for general damages;
2. To the Plaintiff, Marie **Walker**, for specific damages,
 - a) \$4,334.00 for her lost wages claim,
 - b) \$1,593,38 for the subrogated claim of O.H.I.P.,
3. To the Plaintiff, Albert **Walker**, the sum of \$20,000.00 pursuant to the Family Law Act for loss of guidance, care and companionship of the Plaintiff Marie **Walker**;
4. Costs payable to the Plaintiff fixed in the amount of \$35,000.00 inclusive of fees, GST and disbursements;
5. Prejudgement interest at the prescribed rate on all of the damages herein from January 30, 1999 to today's date.

qp/s/qw/qlqs

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