

A REVIEW OF WHIPLASH DECISIONS IN ALBERTA JANUARY, 1994 - JUNE, 2007

**MILD WHIPLASH CASE SUMMARIES
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MODERATE WHIPLASH CASE SUMMARIES
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PREFACE

Purpose

This digest represents a reasonably comprehensive summary of decisions rendered in Alberta courts between 1994 and June 1, 2007 in cases where neck and back soft-tissue injuries (colloquially known as "whiplash") have been alleged.

In preparing this digest, it has not been our intention to provide an in-depth analysis of each case or to speculate on the merits of the quantum awarded. In our view, this task is best left to the individual reader. Our goal is to identify as many of the relevant cases as possible in order to give those interested in the area a point of departure.

Format

For ease of reference, we have attempted to format this digest in a user-friendly manner. First, cases are divided into mild, moderate and severe whiplash related injuries and are ordered chronologically. Second, where the decision is otherwise unreported, we have referenced the Quicklaw cite or the ECarswell cite. Third, wherever possible, the age of the plaintiff is stated as at the date the cause of action arose. Finally, we have also adjusted all damage awards for inflation based on the Brown Economic Assessments Inc. Economics Editor; inflationary updates are current to April, 2007.

We hope that this review will be of value to those practicing personal injury law, be it for the plaintiff bar or the insurance defence bar. To the extent that you have any questions or comments or wish to offer suggestions for the future improvement of this summary, we would be pleased to hear from you.

Insurance Act Regulations

Readers of this publication must be cautioned that the recent enactment of the *Minor Injury Regulation* (AR 123/2004) and the *Diagnostic and Treatment Protocols Regulation* (AR 122/2004) under the *Insurance Act* will have a significant impact on the conduct of claims involving soft tissue/whiplash injuries.

Acknowledgements

The editors would like to extend their gratitude and appreciation to the staff of the Macleod Dixon LLP library, particularly head librarian Judy Harvie, for their efforts in assisting with the preparation of this compilation as well as to the many associates and students who have provided editorial and research assistance.

While we sincerely appreciate their assistance and input, as always, we the editors are alone responsible for any errors.

This review, as in the case of other bulletins and newsletters distributed by our firm, is published by Macleod Dixon LLP to provide information on recent legal developments and topical issues in various specific areas of law. Due to the general nature of such publications, they should not be relied upon as legal advice. Macleod Dixon LLP would be pleased to provide additional details or advice upon request.

Alan S. Rudakoff
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ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Lum-Kam v. Semotiuk</i> (1994), 151 A.R. 138 (Q.B.). Claims: Whiplash TMJ		F		Plaintiff claimed to be fully recovered within eight months after the accident.	\$7,000.00 (less 25% for pre-existing injury) Inflationary Update \$8,974.00	Mr. Justice Lewis	March 17, 1994	Court rejected evidence of TMJ injury caused by accident. The accident did cause or contribute to the plaintiff's already existing headaches, neck and upper back pain and stiffness. Case was at the low range of awards.
							Cause of Action	
<i>Simmie v. Parker</i> (1994), 164 A.R. 178 (Q.B.), affirmed on appeal at (1996), 187 A.R. 307. Claims: Whiplash Fibromyalgia	41	F		Condition should have resolved itself in three to four months but for the aggravation of the pre-existing condition and the plaintiff's weight problem which exacerbated the injury and recovery.	\$12,000.00 Inflationary Update \$15,384.00	Madam Justice Rawlins	November 22, 1994	The plaintiff claimed fibromyalgia but as in <i>Mackie v. Wolfe</i> (see moderate whiplash cases) the Court found that the fibromyalgia was not proven to be related to the accident. The plaintiff was not a credible witness. However, the plaintiff had suffered some minor discomfort as a result of the accident, even if it was just the aggravation of her pre-existing problems.
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>McCarroll v. Anderson</i> (1994), 163 A.R. 204 (Q.B.). Claims: Whiplash		M	Salesperson	4 months.	\$4,000.00 (less 25% for liability) Inflationary Update \$5,128.00	Mr. Justice Hutchinson	December 15, 1994	The Court found that the plaintiff was "slightly injured" in the accident to the extent that he suffered a strain in his neck and lower back region. The accident occurred on March 11, 1990, and the plaintiff was totally recovered by July 3, 1990. Problems after that date were unrelated to the accident.
							Cause of Action	
<i>Watkins v. Goode and the Administrator</i> (1995), 29 Alta. L.R. (3d) 90 (Q.B.). Claims: Whiplash	32	M	Labourer	20 months.	\$12,000.00 Inflationary Update \$15,060.00	Mr. Justice Lewis	April 20, 1995	Plaintiff's complaints of ongoing hip pain were subjective, suspect and somewhat exaggerated. He had not proven that any of his complaints more than 20 months post-accident were caused by the accident. The plaintiff's general damages were assessed on the basis of a mild whiplash injury.
							Cause of Action	
<i>Theodore v. Monarch Messenger Service Ltd.</i> (1995), 176 A.R. 287 (Q.B.). Claims: Whiplash Psychological Injury	33	M	Low level of intellectual skills and aptitudes	Court found that the plaintiff may have had some residual back pain at trial, but it was not significantly debilitating. Accident caused additional emotional difficulties to an already complicated makeup.	\$5,500.00 (mild whiplash) \$10,000.00 (emotional injury) Inflationary Update \$6,902.50 \$12,550.00	Mr. Justice LoVecchio	November 6, 1995	Plaintiff found to be openly deceitful in Court and lacked credibility. (Note that he represented himself.)
							Cause of Action	
							December 14, 1988	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Tat (Calvin) v. Ellis</i> (1996), 180 A.R. 44 (Q.B.), award of general damages upheld at (1999), 228 A.R. (C.A.).</p> <p>Claims: General Upset Nervous Shock Pain and Suffering</p>	17 mo.	M	Infant	Unclear.	\$1,000.00 Inflationary Update \$1,234.00	Mr. Justice Sulatycky	February 5, 1996	Damages awarded for "trauma of fright" only. No damages for general shock, nervous upset and pain and suffering.
							Cause of Action	
							August 20, 1988	
<p><i>Youssef v. Pickerl;</i> <i>Youssef v. Schafer</i> (1996), 43 Alta. L.R. (3d) 413 (Q.B.).</p> <p>Claims: Whiplash</p>	36	F	Medical Doctor in a Residency Program Specializing in Rheumatology; worked part-time as a GP	3 months.	\$2,500.00 Inflationary Update \$3,085.00	Mr. Justice Murray	September 18, 1996	The plaintiff was involved in two motor vehicle accidents. She sued on both. This judgment involves the first accident. Award based on the finding that her injuries were largely resolved prior to the second accident except for the odd upper back spasm which only affected her at night and on occasion in the morning when she woke feeling stiff. Plaintiff was not found to be credible. See discussion in Moderate Whiplash Case Summary.
			Cause of Action					
			First: August 7, 1990 Second: November 2, 1990					

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Silvaniuk v. Stevens</i> (1997), 195 A.R. 45 (Q.B.). Claims: Whiplash TMJ Chronic Pain Post Traumatic Stress Psychological	32	F	Secretary with some administrative duties	Complaints continuing to date of trial.	\$10,000.00 (physical injuries) \$20,000.00 (psychological impact) Inflationary Update \$12,150.00 \$24,300.00	Mr. Justice LoVecchio	February 5, 1997	TMJ complaints found to be unrelated to the accident.
							Cause of Action	Plaintiff found to have developed chronic pain as a result of the accident, but that she had an exaggerated response to pain. Her injuries were not found to be permanent.
							January 17, 1991	
<i>Silvaniuk v. Stevens</i> (1999), 244 A.R. 75 (C.A.).					\$60,000.00 Inflationary Update \$70,980.00	Justices Conrad Berger Hunt	June 21, 1999	The Court of Appeal concluded that the trial judge erred in finding that the plaintiff had failed to mitigate her damages. Court of Appeal also rejected that the plaintiff was not candid with her doctors as the trial judge had found.
							Cause of Action	
							January 17, 1991	
<i>Lachowski v. Dowell Schlumberger Canada Inc. et al.</i> , [1997] A.J. No. 528 (Q.B.). Claims: Whiplash	16	M			\$2,500.00 Inflationary Update \$3,037.50	Mr. Justice J.S. Moore	May 20, 1997	There is nothing in the reasons indicating how the award of general damages was determined. The Court found that the plaintiff did not have serious injuries and they healed quickly. The case focussed on the claim of the plaintiff Lachowski who was more seriously injured.
							Cause of Action	
							December 19, 1990	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>West v. Zehir</i> (1997), 204 A.R. 211 (Q.B.). Claims: Whiplash Chronic Pain Depression	51	M	Unemployed, had worked as an ad sales representative	Complaints continuing to date of trial. Court found the injury to be relatively mild and should have resolved itself within three to six months. The remaining symptoms were more likely the result of degenerative processes to the plaintiff's spine arising from the four previous surgeries undertaken after previous back injuries in the 1970's.	\$7,500.00 Inflationary Update \$9,112.50	Mr. Justice Wilkins	August 11, 1997	Plaintiff had a pre-existing back condition that required a series of four separate surgical procedures. As a result, the Court found that the plaintiff was a "crumbling skull" v. "thin skull" plaintiff and would not hold the defendant liable for any debilitating effects of the pre-existing condition that the plaintiff would have experienced anyway. The plaintiff represented himself. The defence raised several concerns regarding credibility. These concerns caused the Court to very carefully and somewhat skeptically analyze the evidence of the plaintiff concerning the nature and extent of his injuries and particularly the issue of their causation by the accident.
							Cause of Action	
							December 7, 1988	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Korsbrek v. Dimarco</i> , [1997] A.J. No. 1152 (Q.B.); Aff'd [2000] A.J. No. 323 (C.A.). Claims: Soft Tissue injury to back Injured foot and hip		F		Court found that the plaintiff's back injury, if caused by the alleged accident, should have healed within four to six months.	\$4,000.00 (provisional award of damages) Inflationary Update \$4,860.00	Mr. Justice Clarke	November 3, 1997	The parties to this action parked in adjacent parking stalls and had a long standing dispute relating to damage to their vehicles caused by opening car doors into each others' vehicle. Each presented conflicting versions of what happened and the Court found the plaintiff lacked credibility. The Court dismissed the action but advised as to the award that would have been granted had it found for the plaintiff.
							Cause of Action	
<i>Knor v. Fehr</i> (1997), 210 A.R. 33 (Q.B.). Claims: Whiplash TMJ	42	M	Truck Driver and Farmer	Motor vehicle accident occurred in 1986. Plaintiff claimed TMJ was a result of accident and required treatment up to trial. Trial Judge found that the plaintiff suffered a mild to moderate cervical whiplash injury that should have resolved within 20 months post-accident.	\$20,000.00 Inflationary Update \$24,300.00	Mr. Justice Belzil	November 12, 1997	The Court found that the case was in line with the award in <i>Bee v. Sutherland</i> (see moderate whiplash cases), and awarded damages accordingly. Case could also be considered in the "moderate" category. The plaintiff was found to be lacking in credibility and his evidence was unreliable. Court found that the TMJ disorder was not caused by the accident.
							Cause of Action	
							July 3, 1986	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Trotchie v. Gordon et al.,</i> [1998] A.J. No. 444 (Q.B.). Claims: Whiplash		M	Grade 6 education, illiterate, worked as a roofer prior to accident.	Plaintiff suffered from prior neck injuries. Also, the day after the accident, he fell down the stairs and cut his head. The Court found the plaintiff suffered from a stiff and sore neck from the motor vehicle accident and falling down the stairs for a period of six months.	\$5,000.00 (reduced as the accident found to have caused only 50% of his injury) Inflationary Update \$6,020.00	Madam Justice Nation	April 27, 1998	Credibility of the plaintiff was greatly in issue and there was an allegation that his claim was fraudulent. Plaintiff found to be a poor historian and not very credible. The Court did not find he was fabricating his claim. Plaintiff also found to have failed to mitigate his suffering by attending physiotherapy, contrary to the advice of two physicians.
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>S.F.P. v. MacDonald</i> (1999), 234 A.R. 273 (Q.B.). Claims: Brain Injury Fibromyalgia TMJ Whiplash Emotional Injury	34	F	Trained as a Legal Assistant; worked as a receptionist in a law firm immediately prior to the accident.	Plaintiff continued to complain up to trial. The Court found that the injuries caused by the accident were resolved within one year of the accident.	\$50,000.00 (whiplash injury) \$14,000.00 (TMJ injury) Inflationary Update \$59,150.00 \$16,562.00	Madam Justice Veit	February 1, 1999	The plaintiff had an extensive and complicated medical and psycho-social history prior to the accident. Prior to the accident, she suffered all of the symptoms which she now attributes to the accident. The plaintiff did not prove, on a balance of probabilities, that the accident caused a brain injury or fibromyalgia. She proved that the accident caused a mild soft tissue neck injury and aggravated her existing TMJ dysfunction and other pre-existing physical problems, including those with an emotional overlay. In assessing general damages for the whiplash injury, the Court stated: "[the plaintiff] suffered a mild whiplash. However, [the plaintiff] was a person who took longer than the average to recovery from injuries; the defendants must take their victim as they find her". The Court did not find that the plaintiff was a malingerer and although the Court did not accept the plaintiff's evidence on some issues, the Court did not think she was lying.
							Cause of Action	
							July 11, 1994	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Lauff v. Seewalt</i> (1999), 234 A.R. 305 (Q.B.). Claims: Whiplash Headaches Depression	61	M	Service Manager at Canadian Tire	The plaintiff had returned to full range of motion four days after the accident but pain continued. (Note: the Court found that the pain would have developed in any event due to his degenerative disc disease but the disease was asymptomatic prior to the accident.)	\$12,000.00 Inflationary Update \$14,196.00	Madam Justice Kent	March 10, 1999	Medical evidence showed that the plaintiff had a predisposition to internalizing physical ailments which manifested as psychological problems. The headaches were caused by work related stress and not the accident. The plaintiff had a pre-existing degenerative disc condition that was accelerated by the accident (the plaintiff was a "crumbling skull" victim). It was the acceleration of this condition to which the general damages were related to. The Court found that the plaintiff was prone to exaggeration and to the extent his evidence differed from the other witnesses, the Court did not accept his evidence.
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Godkin v. Boresky</i> (1999), 249 A.R. 383 (Q.B.). Claims: Whiplash	45	F	Nursing Care Attendant	All injuries from the accident were healed within just over three months post-accident, at the latest. (December 6, 1996 – March 13, 1997).	\$5,000.00 Inflationary Update \$5,915.00	Madam Justice Veit	September 21, 1999	Mitigation issue arose due to the plaintiff: (a) neither taking the muscle relaxant analgesics prescribed for her nor returning to her doctor to discuss why she discontinued taking them, and (b) she did not discuss her ongoing pain with her doctor and therefore, she did not explore additional treatments that may have been prescribed or recommended (e.g. physiotherapy, pain clinic, new drugs, etc.).
							Cause of Action	
<i>Shum v. Mitchell</i> (1999), 251 A.R. 177 (Q.B.). Claims: Whiplash Knee injury		F	Waitress	Roughly one year post accident the plaintiff was assessed at 1.5% permanent partial disability (the Court felt that when percentages were this small the inclination is to find that there is no permanent partial disability). The Court: "This was a minor whiplash of a relatively short duration, coupled with a knee injury which healed quickly."	\$8,500.00 Inflationary Update \$10,055.50	Mr. Justice Wilson	September 28, 1999	The plaintiff was not found to be credible and many other complaints were related back to pre-accident injuries or conditions.
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Pugsley v. Wong</i> (1999), 265 A.R. 80 (Q.B.). Claims: Pain and Suffering TMJ Knee Injury Lower Back Injury	40	F	Government Employee	Complaints and symptoms continuing to date of trial.	\$12,000.00 Inflationary Update \$14,196.00	Madam Justice Johnstone	December 3, 1999	Court found that the plaintiff did not act reasonably in following the medical advice given to her and reduced damages by 25% for failure to mitigate. Court held that the plaintiff's injuries should have resolved 12 to 24 months post-accident. Court satisfied that the plaintiff's cervical bruising and tenderness to her abdomen was resolved shortly after the accident.
							Cause of Action	
<i>Mejia v. Omeasoo</i> (2000), 257 A.R. 363 (Q.B.). Claims: Whiplash Headaches	28	M	Painting Subcontractor	Neck pain and headaches resolved six to seven months post-accident, but back pain continued. Stopped attending physiotherapy (contrary to recommendations) 10 months post-accident.	\$10,000.00 (factors in a failure to mitigate) Inflationary Update \$11,520.00	Mr. Justice Gallant	January 25, 2000	Plaintiff stopped attending physiotherapy due to allegedly being unable to pay for treatments 10 months post-accident. By 15 months post accident, the plaintiff did not appear to be in any distress.
							Cause of Action	
<i>Pettipas v. Klingbeil</i> (2000), 260 A.R. 1 (Q.B.). Claims: Pain and Suffering Whiplash	49	M	CAPS Officer	Complaints continuing to date of trial.	\$14,000.00 Inflationary Update \$16,128.00	Mr. Justice Hutchinson	February 11, 2000	Court satisfied that the plaintiff's injuries had been exaggerated. Injuries should have resolved within 18 months post-accident.
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Pettipas v. Klingbeil, supra.</i> Claims: Pain and Suffering Whiplash	43	F	Registered Nurse	Complaints continuing to date of trial.	\$18,000.00 Inflationary Update \$20,736.00	Mr. Justice Hutchinson	February 11, 2000	Court satisfied that the plaintiff's injuries were exaggerated. Injuries should have resolved within 2 years post-accident.
							Cause of Action	
							December 10, 1992	
<i>Schellenberg v. Surducan, [2000] A.J. No. 94 (Q.B.).</i> Claims: Trochanteric bursitis (right hip) Soft tissue injuries		F		Not stated.	\$7,500.00 Inflationary Update \$8,640.00	Mr. Justice Hawco	April 4, 2000	In a very short judgment, the Court concluded that it was not satisfied that the bursitis was caused by the accident. The Court concluded that the accident caused a "mild soft tissue injury".
							Cause of Action	
							July 11, 1995	
<i>Newlands v. Nielsen, [2001] A.J. No. 534 (Q.B.).</i> Claims: Chest pain Right shoulder pain Headaches Neck pain	54	M	Worked for a construction company	Complaints continuing to trial.	\$15,000.00 Inflationary Update \$16,845.00	Mr. Justice Clarke Damages assessment following a binding Judicial Dispute Resolution	April 10, 2001	The plaintiff sought general damages in the sum of \$45,000.00 however, the Court concluded that with the exception of the neck injury, the balance of the plaintiff's injuries were resolved within one year of the accident.
							Cause of Action	
							August 10, 1997	
<i>Wong v. Mejia, [2001] A.J. No. 665 (Q.B.).</i> Claims: Whiplash		M	Part-time pizza delivery person	Resolved within two months post-accident.	\$5,500.00 Inflationary Update \$6,176.50	Madam Justice Veit	May 17, 2001	Court agreed with defendant counsel's submission that injuries that resolve within a few months post-accident should be assessed on a different scale than injuries that persist beyond one year.
							Cause of Action	
							November 25, 1998	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Wong v. Mejia, supra.</i> Claims: Neck Spasms Shoulder tenderness Scapular tenderness		F	Dental Receptionist	Resolved within three months post-accident.	\$4,800.00 Inflationary Update \$5,390.40	Madam Justice Veit	May 17, 2001	The Court accepted the Defendant Honda's submission that minor injuries that resolve within three to four months should be valued at \$1,000.00 - \$1,500.00 per month. The Court specifically stated that "injuries that essentially resolve within a few months after the accident should be assessed on a different scale that injuries that persist beyond one year post-accident".
							Cause of Action	
<i>Deliva v. Chrysler Canada</i> (2002), 311 A.R. 196 (Q.B.). Claims: Whiplash Headaches		M		Plaintiff experienced headaches and neck pain "on a fairly frequent basis" for approximately eight months post-accident and as often as three times per week thereafter to the date of trial.	\$10,000.00 Inflationary Update \$10,980.00	Mr. Justice Hawco	February 20, 2002	Action was against the vehicle manufacturer for soft tissue injuries caused by alleged improper air bag deployment. The Court described the plaintiff's injuries as "mild to moderate". The Court's decision considered the fact that the plaintiff only attended upon his doctor three times post-accident and failed to obtain physiotherapy treatment notwithstanding physician referral.
							Cause of Action	
							July 10, 1998	

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Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Teichgraber v. Gallant</i> , [2003] A.J. No. 70 (Q.B.). Claims: Whiplash Headaches Ringing in left ear Involuntary swallowing Pain under the heart and at elbow joints Chronic Pain Depression	32	M	Graphic Designer	Plaintiff complained of continuing pain in his neck when holding it erect, along with pain in his left and right trapezius muscles each shoulder and down his left arm into his fingers. Also complained of ongoing headaches.	\$17,000.00 Inflationary Update \$18,173.00	Mr. Justice Marshall	January 23, 2003	The plaintiff was re-ended on March 26, 1995. Though the plaintiff complained of considerable ongoing pain to the date of trial, the Court commented that it had observed the plaintiff during the course of the trial and that it was not apparent that he showed any discomfort (i.e., was able to freely move his head). The Court found that the plaintiff had “consciously or unconsciously... adopted a ‘sick person’ role and the resultant benefits through the years”. In setting quantum for general damages, the Court held that the plaintiff was entitled to “compensation for a whiplash of a mild to medium severity which would have interfered with few normal duties after six months”.
							Cause of Action	

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Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Krawchuk v. Mellor</i> (2003), 14 Alta. L.R. (4 th) 369 (Q.B.). Claims: Whiplash Depression	Early 20's	F	Student with part-time work	The Court specifically found that the acute phase of proven symptoms lasted approximately two months, flare-ups of pain persisted on an intermittent basis for 18 months and mildly related depression continued for almost two years.	\$18,000.00 Inflationary Update \$19,242.00	Madam Justice Greckol	February 18, 2003	The Court was not prepared to find that the plaintiff's treatment process was unreasonable so as to warrant a reduction in damages for failure to mitigate. In addition, the Court rejected the argument that the plaintiff was a malingerer. In assessing general damages at \$18,000.00, the Court concluded that such an award was "intended to reflect both that the continuing symptoms were intermittent rather than continuous in nature and that there was only mild correlation between the injuries and the depression".
							Cause of Action	
<i>Singh v. Turna</i> (2003), 337 A.R. 192 (Q.B.). Claims: Multiple soft tissue injuries Sprained right shoulder Cervical-thoracic strain Trochanters bursitis C5-C6 radiculopathy				The Court concluded that the plaintiff suffered mild soft tissue injuries that, in the ordinary course, should have resolved within a few weeks or months post-accident.	\$12,000.00 Inflationary Update \$12,828.00	Mr. Justice Lee	March 11, 2003	The Court dismissed the action on the basis that liability had not been established however, did provisionally set damages. In assessing general damages, the Court concluded that the plaintiff's injuries should have resolved within six months post-accident. The general damages quantification was justified on were awarded on the basis of the <i>Wong v. Mejia</i> scale of \$1,000.00 - \$1,500.00 per month.
							Cause of Action	

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Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Bouchard v. Sherwood Park Finishing (1984) Ltd., [2003] A.J. No. 356 (Q.B.).</i> Claims: Whiplash type injuries to the neck and shoulders Jaw pain Headaches Depression Constant pain	36	M	Dock hand	Plaintiff alleged that accident injuries persisted to the date of trial. The Court concluded that the "fairly sever soft tissue and ligamentous injury" should have resolved no later than seven months post-accident.	\$30,000.00 Inflationary Update \$32,070.00	Mr. Justice Lefsrud	March 18, 2003	In assessing general damages, the Court concluded that the credibility of the plaintiff had been "impugned to such an extent" that he "intentionally and methodically misled not only his doctors, consultants and friends, but also this Court by, on a continuing basis, grossly exaggerating his complaints and knowingly failing, when interviewed by various experts and others, to be a candid historian.
							Cause of Action	
<i>Prefontaine v. Martin, [2003] A.J. No. 827 (Q.B.).</i> Claims: Whiplash Headaches	49	M	Unemployed	Plaintiff alleged that he sustained a cervical strain as a consequence of the accident. The day following the accident he attended on his family physician, complaining of headaches and neck pain.	\$6,000.00 Inflationary Update \$6,414.00	Mr. Justice Belzil	June 26, 2003	The plaintiff was rear-ended on March 22, 1998. Liability for the accident was admitted. The Court concluded that the accident could be described as a "minor impact". As prescribed by his family physician, the plaintiff attended at physiotherapy for three months post-accident. The Court concluded that the plaintiff was 80% recovered three months post-accident. On the basis of the decision in <i>Wong v. Mejia</i> , \$1,500.00 per month was awarded for non-pecuniary damages.
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Palpal-Latoc v. Berstad</i> , [2004] A.J. No. 240 (C.A.). Claims: Whiplash					\$12,000.00 Inflationary Update \$12,588.00	Justices McFadyen Berger Ritter	March 1, 2004 Cause of Action October 15, 1998	The matter came before the Court of Appeal and an appeal from the assessment of damages by Mr. Justice Brooker sitting with a jury. The jury awarded general damages in the sum of \$2,500.00. The Court of Appeal concluded that the general damages award was inconsistent with award of \$7,403.83 for past loss of earnings which extended for a period of five months post-accident. The respondent cited the decision in <i>Wong v. Mejia</i> wherein the formula for setting general damages awards in minor whiplash cases was assessed at \$1,000.00 to \$1,500.00 per month. The Court of Appeal declined "to review or endorse" that range and set general damages at \$12,000.00.

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Floyd v. Couture</i>, [2004] A.J. No. 377 (Q.B.).</p> <p>Claims: Musculoligamentous strain/whiplash Osteoarthritis Osteoporosis Knee pain Upper and lower back pain Depression</p>	45	M	Restoration of antique cars	Complained of ongoing symptoms to the date of trial.	\$2,000.00 (The Court chose not to set aside a settlement entered into between the plaintiff and an insurance adjuster less than two months post-accident.) Inflationary Update \$2,098.00	Madam Justice Coutu	March 26, 2004	<p>The plaintiff was rear-ended by the defendant in October, 1997. The plaintiff entered into a settlement with the defendant's insurance adjuster. A final release was executed and the settlement cheque was cashed.</p> <p>The plaintiff commenced an action alleging that he only settled his property damage and wage loss claims and not his personal injury claim.</p> <p>The Court concluded that the plaintiff settled his entire claim at the time the release was executed. The Court went on to find that although there was an inequality of bargaining power between the plaintiff and the adjuster, the adjuster did not use overt undue influence or pressure to conclude the settlement. In addition, though the settlement amount "may not have been at the top range, neither was it so low as to be unconscionable". At the conclusion of trial, the Court chose not to set aside the settlement.</p>
							Cause of Action	
							October 19, 1997	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Cozicar v. Oliverio</i> , [2004] A.J. No. 727 (Q.B.) Claims: Neck strain Strain to trapezius muscles Strain to the right shoulder Contusion of the right forearm Contusion abrasions and strain primarily to the right wrist Contusion to the right hand		F	Dental Lab Technician	Complained of ongoing symptoms to the date of trial.	\$25,000.00 Inflationary Update \$26,225.00	Mr. Justice McMahon	June 9, 2004	The plaintiff and defendant were involved in a T-bone collision in January, 1997. The Court noted that the plaintiff was "in some pain and for five months was restricted in her household work". The Court fixed general damages at \$25,000.00 on the basis that the plaintiff's soft tissue injuries were delayed in healing due to the nature of her work. The Court declined to award expenses for liposuction related to breast reduction surgery and the cost of a gym membership on the basis that neither were causally related to the accident.
							Cause of Action	
<i>Larsen v. Bell and Larsen v. Stirk</i> , [2004] A.J. No. 739 (Q.B.) Claims: Soft tissue injuries Fibromyalgia Chronic pain	39/40	F	Educated as a Registered Nurse	Complained of ongoing symptoms to the date of trial.	\$40,000.00 Inflationary Update \$49,960.00	Mr. Justice Hillier	June 18, 2004	The Court concluded that both the first accident and the second accident were low impact collisions however, "the soft tissue injuries affected Ms. Larsen to a greater extent than many people". The Court awarded general damages of \$40,000.00 "at the higher end of the scale for mild whiplash".
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Pulak v. Sunshine Village Corp.</i> , [2004] A.J. No. 857 (Prov. Ct.) Claims: Neck strain Back injury	69	M	Retired Lawyer	Four months.	\$5,000.00 (inclusive of \$1,000.00 for intermittent future pain) Inflationary Update \$5,245.00	Associate Chief Judge Scott	July 20, 2004	The plaintiff was involved in an incident at the Sunshine Village Ski Resort when the Tow Bar on the Wawa Run suddenly came down on his head. He was wearing a ski helmet at the time of the incident. Shortly after the incident the plaintiff complained of "significant stiffness to the right and left trapezoids which limited his range of motion". The Court found that the plaintiff's spine had been going through degenerative changes for approximately three years prior to the accident. The Court's award of general damages was predicated on the decision in <i>Wong v. Mejia</i> that "injuries that essentially resolve within a few months after the accident should be assessed on a different scale than injuries that persist beyond one year post-accident". The Court accepted a range of \$1,000.00 to \$1,500.00 per month "for non-pecuniary general damages for relatively minor injuries".
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Dyck v. Wilkinson, [2004] A.J. No. 1155 (Q.B.)</i> Claims: Cervical strain Lumbar strain	43	M		Complained of ongoing symptoms to the date of trial.	\$30,000.00 Inflationary Update \$31,470.00	Mr. Justice Rooke	October 8, 2004	Although there was some inconsistency in the various medical reports produced at trial, the Court concluded that the plaintiff sustained a "moderate cervical and lumbar back strain with some trochanteric bursitis of the right hip" as a consequence of the accident. It was further concluded that the plaintiff would experience ongoing pain in the future. The Court was not prepared to find that the plaintiff's degenerative back condition was caused or worsened as a result of the accident or that her depression was in any way associated with the accident.
							Cause of Action	
<i>Axani v. QSR Edmonton Ltd., [2004] A.J. No. 1457 (Prov. Ct.)</i> Claims: Right wrist sprain Contusions to the right shoulder, right hip and right leg	66	F		Complained of ongoing symptoms to the date of trial.	\$3,000.00 Inflationary Update \$3,147.00	Judge Ingram	November 25, 2004	The plaintiff was involved in a "slip and fall" while purchasing groceries. She injured her right wrist and suffered contusions to her right shoulder, right hip and right leg. The Court concluded that there was "no medical evidence sufficient to conclude that her present complaints were caused by the accident which occurred over four years ago; nor was the injury ever disabling. She continued to be able to do the necessary work to look after her house, yard and garden".
							Cause of Action	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Reimer v. Polgar</i> , [2005] A.J. No. 373 (Q.B) Claims: Upper end Grade 1 whiplash injury with upper and lower back spasms	34	F	Mother of 3	4-5 months of acute pain and discomfort. By commencement of trial, plaintiff had achieved recovery to her pre-March 10 th , 2004 condition.	\$21,376.35 Inflationary Update \$21,953.51	Judge Hironaka	March 23, 2005	This matter was complicated by the fact the plaintiff was involved in an earlier motor vehicle accident on May 26, 2003, in which she also suffered a whiplash type injury. The plaintiff suffered periodic pain and discomfort after the May 26, 2003 accident for which she received massage and chiropractic treatment. The plaintiff was likely susceptible to re-injury.
							Cause of Action	
<i>Faltous v. McKinley</i> , [2005] A.J. No. 1414 Claims: Dizziness Neck pain Left hand numbness Left side headaches Left shoulder pain Left facial pain Left index finger numbness	50	M	Structural engineer	All symptoms were almost completely resolved over a period of two to two and one-half years.	\$18,000.00 Inflationary Update \$18,486.00	Associate Chief Justice Wittmann	October 6, 2005	The Court found that the plaintiff had suffered a mild soft tissue injury. Of all of the plaintiff's symptoms, the Court was not prepared to make an award for low back pain as it was determined that that complaint was not materially contributed to by the accident.
							Cause of Action	
							January 24, 1998	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Faltous v. McKinley</i> , [2005] A.J. No. 1414 Claims: Neck pain Shoulder pain Arm pain Headaches	48	F	Masters in Business Administration	Ongoing to the date of trial with "lingering effects". Extensive treatment for the first two years post-accident.	\$24,000.00 Inflationary Update \$24,648.00	Associate Chief Justice Wittmann	October 6, 2005	The Court concluded that the plaintiff had sustained a "mild to moderate muscular-skeletal soft tissue injury". It was specifically held that injuries sustained as a result of the motor vehicle accident caused pain at work and prevented the plaintiff from engaging in certain recreational activities factored into the award.
							Cause of Action	
<i>Worten v. Black</i> , [2006] A.J. No. 41 (Q.B.) Claims: Soft tissue injury to the upper torso and neck Low grade headaches Catastrophic depression		M	Numerous over the ten years pre-accident.	3% permanent partial disability.	\$23,000.00 Inflationary Update \$23,414.00	Mr. Justice Sanderman	January 17, 2006	This matter was "remarkably straight forward" from the perspective of general damages. The Court was satisfied that the plaintiff suffered a 3% permanent partial disability. Of greater significance was the Court's refusal to recognize a causal link between the accident and the plaintiff's depressive state. No award was made for loss of income and only a minor (3½ months) award for loss of housekeeping.
							Cause of Action	
							September 29, 1999	

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Besler v, Dillabough</i> (2006), 391 A.R. 173 (C.A.) Claims: Headaches Neck pain		F		Symptom improvement six months post-accident with no further improvement thereafter	\$4,000.00 (jury award) \$12,000.00 (as awarded by the Court of Appeal)	Justices Berger, Ritter and Martin	August 3, 2006	A jury assessed general damages at \$4,000.00. There was disagreement at trial as to whether or not the injuries lasted two to four months or were persistent to the date of trial. The defendant's expert testified that the symptoms should have resolved within three to six months. The Court allowed the plaintiff's appeal and set general damages at \$12,000.00.
	Cause of Action	April 26, 2001						

ALBERTA MILD WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Ethell v. Hudson's Bay Co.</i> , [2006] A.J. No. 1086 (Prov. Ct.) Claims: Muscle strain Bruising	64	F		Two months	\$3,500.00	Associate Chief Judge Scott	August 14, 2006	The plaintiff was injured while exiting the downtown Bay store when the automatic door swung shut. The plaintiff was struck by the door and sustained severe bruising to her right arm and strain to the right rotator cuff muscles. The plaintiff required seven physiotherapy treatments with hot packs, manipulation and the use of pain killers over a two month period with some residual discomfort and restriction on activities during that period. The Court dismissed the plaintiff's claim but provisionally set damages in the event of an appeal. The Court concluded, on the basis of <i>Wong v. Mejia</i> , <i>Prefontaine v. Martin</i> and <i>Singh v. Turna</i> , that \$2,500.00 for a two month injury plus \$1,000.00 for subsequent intermittent pain and restriction on activities was appropriate.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Stranden v. Le</i> , [1994] A.J. No. 428 (Q.B.). Claims: Whiplash Migraines Fibromyalgia Psychological Injuries		F	Worked two jobs part-time prior to accident	Complaints continuing to time of trial.	\$30,000.00 Inflationary Update \$38,460.00	Madam Justice Trussler	April 29, 1994	Minor collision but plaintiff not wearing a seatbelt was thrown into windshield and ended up on car floor. Plaintiff found to be suffering from fibromyalgia. Prior to assessing damages, the Court considered whether ongoing complaints caused by pre-existing problems including two prior accidents and pre-existing migraine condition. Also, the plaintiff had a history of abuse, a drug addiction problem, problems with her children and struggled to continue her education. Above factors taken into account when assessing damages.
							Cause of Action	
<i>Janiten v. Bibaud</i> (1994), 20 Alta. L.R. (3d) 373 (Q.B.), affirmed on appeal at (1997), 56 Alta. L.R. (3d) 428. Claims: Whiplash	36	M	Journeyman Electrician	At the time of trial, four years post-accident, plaintiff claimed residual pain prevented him from working.	\$17,500.00 Inflationary Update \$22,435.00	Mr. Justice Lefsrud	May 31, 1994	Objective evidence indicated that the plaintiff should have recovered in six months but failed, due to his consumption of alcohol, cigarettes and caffeine and his failure to follow proper treatment.
							Cause of Action	
							May 23, 1990	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Mackie v. Wolfe</i> (1994), 21 Alta. L.R. (3d) 11 (Q.B.), affirmed on appeal at (1996), 41 Alta. L.R. (3d) 28.</p> <p>Note - the Court of Appeal affirmed Justice Rawlin's decision. Did not rule fibromyalgia did not exist, only that it was not the cause of the plaintiff's ongoing symptoms.</p> <p>Claims: Whiplash Fibromyalgia</p>	41	F		The plaintiff complained that she continued to suffer from intermittent pain from the whiplash injury for nine years up to trial. The Court found the injuries should have resolved within six to eight months post-accident.	\$25,000.00 Inflationary Update \$32,050.00	Madam Justice Rawlins	June 10, 1994	Fibromyalgia was claimed. The Court rejected the fibromyalgia diagnoses, finding that the plaintiff's symptoms were psychologically motivated and not attributable to the motor vehicle accident. The plaintiff also failed to mitigate and the damages for her continuing disability were reduced accordingly.
							Cause of Action	
<p><i>Ferguson v. Varzari and National Salvage Ltd.</i>, (1994), 156 A.R. 33 (Q.B.).</p> <p>Claims: Whiplash Chronic Pain</p>	53	F	Registered Nurse	The plaintiff developed chronic pain after her physical injury had healed.	\$30,000.00 Inflationary Update \$38,460.00	Mr. Justice Prowse	June 28, 1994	The plaintiff's symptoms were subjective in nature. The plaintiff had 200 physiotherapy treatments but no physiotherapist was called to give evidence, from which an adverse inference was drawn.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Badger v. Dowsett</i> (1994), 156 A.R. 132 (Q.B.). Claims: Whiplash	21	F	Commercial Real Estate Agent	Approximately three years.	\$16,000.00 Inflationary Update \$20,512.00	Mr. Justice Ritter	June 29, 1994	The Court found the plaintiff had suffered a whiplash type injury in the moderate range, but probably at the low end of that range. She had suffered some discomfort throughout the course of approximately three years. She participated in a variety of physical sports during this period, for career advancement purposes and her injuries caused her discomfort while doing so.
							Cause of Action	
<i>Kelly v. Hols</i> (1994), 22 Alta. L.R. (3d) 338 (Q.B.). Claims: Whiplash		F	Dental Hygienist	75% of the injuries resolved within 15 months post-accident however, the plaintiff continuing to suffer pain in neck and headaches continuing to trial.	\$20,000.00 Inflationary Update \$25,640.00	Mr. Justice Andrekson	August 25, 1994	No element of permanent impairment found.
							Cause of Action	
<i>McCarroll v. Anderson</i> (1994), 163 A.R. 204 (Q.B.). Claims: Whiplash	early 50's	F	Worked at a bank	Plaintiff exaggerated duration of injury.	\$10,000.00 (less 25% for liability) Inflationary Update \$12,820.00	Mr. Justice Hutchinson	December 15, 1994	Plaintiff was exaggerating duration and extent of injuries which were mild to moderate in nature.
							Cause of Action	
							March 11, 1990	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Weder v. Craig</i> (1995), 166 A.R. 20 (Q.B.). Claims: Whiplash	42	M	Travelling Salesman	Plaintiff suffered from a pre-existing degenerative condition (Charcot Marie Tooth - a slow progressive disease which involved weakness of the legs and arms, degrees of muscle wasting and sensory loss). The plaintiff had pain from this disease prior to the accident but was still able to work a full day and function at home.	\$30,000.00 (less 50% for pre-existing condition) Inflationary Update \$37,650.00	Mr. Justice Andrekson	January 13, 1995	The plaintiff was a credible forthright witness. He was not a malingerer. It was found on the evidence that he experienced far greater pain post-accident than he did before.
							Cause of Action	
<i>Davies v. Chouinard</i> (1995), 166 A.R. 363 (Q.B.). Claims: Whiplash Psychological Injuries		F	Teacher and Assistant Principal	50% of the plaintiff's ongoing state was attributed to the accident and there was a 2% impairment related to the accident.	\$15,000.00 general damages \$50,000.00 psychological injuries Inflationary Update \$18,825.00 \$62,750.00	Madam Justice Veit	February 28, 1995	Emotionally thin-skulled victim but you take the victim as you find her. \$15,000.00 awarded as general damages for physical injuries and \$50,000.00 to compensate for the emotional injuries and the lifestyle that she lost.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Jessal v. Maxwell</i> (1995), 167 A.R. 258 (Q.B.). Claims: Whiplash Fibromyalgia	32	F	Part-time accountant/sales clerk	Plaintiff complained of pain continuing up to trial, but Court found that the injury should have resolved within two years post-accident.	\$15,000.00 Inflationary Update \$18,825.00	Mr. Justice Waite	March 9, 1995	Some indication that the plaintiff lacked credibility and exaggerated the length of time she suffered. In addition, she failed to mitigate by losing weight as instructed by medical care-givers. Note that the diagnosis of fibromyalgia was rejected.
							Cause of Action	
<i>Ramsay v. Bain</i> (1995), 170 A.R. 298 (Q.B.). Claims: Whiplash	35	F	Part-time worker	Suffered considerable pain in the weeks and months following the accident but no long term effects.	\$15,000.00 (for the initial injury plus \$5,000.00 for aggravation of her chronic pain post-accident.) Inflationary Update \$18,825.00 \$6,275.00	Madam Justice Veit	May 1, 1995	The plaintiff was not a malingerer but she had suffered pre-existing injuries to those she claimed were caused by the accident which she had failed to disclose to her physicians.
							Cause of Action	
<i>Gibson v. Reeves</i> , [1995] A.J. No. 1119 (Q.B.). Claims: Whiplash		F	Word processor for a law firm	. The plaintiff continued to suffer chronic pain in her lower back with varying degrees at the time of trial. Two medical experts diagnosed a 5% impairment.	\$25,000.00 Inflationary Update \$31,375.00	Mr. Justice Deyell	November 30, 1995	The plaintiff was overweight and in poor physical condition. This contributed to her long recovery and difficulties at the time of trial.
							Cause of Action	
							October 12, 1988	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Jacques v. Passey</i> (1995), 177 A.R. 178 (Q.B.), rev'd on issues unrelated to award of general damages (1999) 73 Alta. L.R. (3d) 392 (C.A.). Claims: Whiplash Chronic Pain Depression TMJ	Late 40's	F	Realtor	Motor vehicle accident occurred in 1990. Plaintiff suffered soft tissue injury to neck and an aggravation of a TMJ condition. She also aggravated a chronic low back condition that had been stable prior to the accident. The direct effects of the accident should have lasted 18 months to two years following the accident.	\$27,500.00 Inflationary Update \$34,512.50	Mr. Justice Mason	December 19, 1995	Court evaluated evidence and found that the direct effects of the physical injury should have lasted for no more than two years because (a) she did not receive active treatment for longer than two years; (b) factors other than her injuries contributed to her complaints; (c) her journal only documents the injuries for two years; and (d) the aggravation of her TMJ condition was resolved 18 months post-accident. With respect to her continuing depression and chronic pain, the Court found her depression was unrelated to the accident and chronic pain was at most 5-10% related back to the accident.
							Cause of Action	
							June 4, 1990	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Cox v. Joyal</i> (1996), 182 A.R. 244 (Q.B.).</p> <p>Claims: Whiplash TMJ Chronic Pain</p>	28	F	Teacher	Moderate whiplash injury should have resolved in two years but because it was coupled with the TMJ problems, the award was based on a four year recovery. The TMJ injury was caused 60% by the accident and 40% by the pre-existing condition. She developed chronic pain with respect to her jaw, neck and headaches.	TMJ \$40,000.00 (less 40% for pre-existing condition.) Whiplash \$25,000.00 Inflationary Update \$49,360.00 \$30,850.00	Mr. Justice Marshall	April 11, 1996	Plaintiff's credibility was in question. The plaintiff also failed to mitigate her damages by seeking reasonable treatment.
							Cause of Action	
<p><i>McKay v. Stewart</i> (1996), 182 A.R. 181 (Q.B.).</p> <p>Claims: Whiplash TMJ</p>	26	F	Dental Assistant	Motor vehicle accident occurred in 1986. By March 1995 she had chronic neck and low back pain aggravated by various activities but no measurable impairment. TMJ injury but plaintiff suffered from pre-existing problem that was moderate to severe.	\$40,000.00 (soft tissue injuries.) \$40,000.00 (TMJ less 40% for pre-existing condition.) Inflationary Update \$49,360.00 \$49,360.00	Mr. Justice Matheson	March 21, 1996	Plaintiff found to be a credible and genuine witness. Plaintiff a "crumbling skull" with respect to TMJ injury.
							Cause of Action	
							March 24, 1986	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Dykes v. Goczan</i> (1996), 188 A.R. 355 (Q.B.). Claims: Whiplash Headaches Arm pain		F		Pain continued for one year after the assault and flared up for another year when the plaintiff returned to work.	\$22,500.00 Inflationary Update \$27,765.00	Mr. Justice Binder	April 17, 1996	Plaintiff was attacked from behind by the defendant, who pulled her head backwards and dragged her by her hair then struck her face and jaw several times. For six months following the assault, the plaintiff suffered from headaches, back and shoulder pain, muscle spasms, and numbness and tingling in her arm. For the six months thereafter, the plaintiff continued to suffer symptoms but to a lesser degree. The symptoms became worse as the plaintiff went back to work and continued for the duration of the next year.
							Cause of Action	
<i>Bee v. Sutherland</i> (1996), 186 A.R. 8 (Q.B.). Claims: Whiplash		F	Substitute teacher and part-time sales clerk.	Motor vehicle accident occurred October 21, 1989. Plaintiff suffered from mild to moderate whiplash injury and continued to suffer from periodic neck and back pain up to trial.	\$20,000.00 Inflationary Update \$24,680.00	Madam Justice Kenny	May 29, 1996	
							Cause of Action	
							October 21, 1989	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Phillips v. Rost</i> (1996), 40 Alta. L.R. (3d) 246 (Q.B.). Claims: Whiplash Chronic Pain Fibromyalgia Psychological Injury	38	F	Homemaker	Moderate to severe whiplash injury affecting the neck and shoulder areas resolved within three and a half years. Lasting psychological problems from accident continuing to trial.	\$30,000.00 (physical injury.) \$45,000.00 (psychological injury.) Inflationary Update \$37,020.00 \$55,530.00	Madam Justice Moreau	June 14, 1996	Court apparently rejected the fibromyalgia diagnosis, but awarded \$45,000.00 for the chronic pain and psychological injury, finding she was a thin skulled victim in this regard.
							Cause of Action	
							December 20, 1988	
<i>Kay v. Paquette</i> (1996), 186 A.R. 236 (Q.B.). Claims: Whiplash	26	M	Grade 10 education. Worked for CNR operating a tamper machine.	Motor vehicle accident occurred March 5, 1991. Moderately severe whiplash injury continuing to trial.	\$20,000.00 Inflationary Update \$24,680.00	Mr. Justice Lefsrud	July 4, 1996	Previous accident causing similar injuries and pre-existing physical difficulties as a result of his employment taken into account by Court in making the award. Plaintiff not a malingerer.
							Cause of Action	
							March 5, 1991	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Youssef v. Pickerl;</i> <i>Youssef v. Schafer</i> (1996), 43 Alta. L.R. (3d) 413 (Q.B.). Claims: Whiplash	36	F	Medical Doctor in a Residency Program for Rheumatology; Worked part time as a GP.	Neck and back injury in large part resolved 17 months after the accident.	\$25,000.00 (Figure included some loss of income.) Inflationary Update \$30,850.00	Mr. Justice Murray	Sept 18, 1996	Plaintiff was involved in two motor vehicle accidents and she sued on both. Injuries for the first accident resolved before the second accident and were assessed separately (see discussion in Mild Whiplash Case Summary). With respect to the second accident, there were serious concerns about the authenticity and degree of pain and disability. The Court found that the plaintiff's ongoing problems were linked to degenerative changes rather than the second accident.
							Cause of Action	
<i>Danks v. Wouterse-Balko</i> (1996), 189 A.R. 224 (Q.B.). Claims: Whiplash	48	F	Realtor	Motor vehicle accident occurred July 7, 1992. Nagging, continuous backache continuing up until date of trial which would continue to trouble plaintiff but further deterioration was not expected to occur.	\$25,000.00 (Judge took pre-existing condition into account by applying a 15% discount.) Inflationary Update \$30,850.00	Mr. Justice Murray	Sept 18, 1996	"Eggshell skull situation." Trauma was imposed upon a pre-existing physical condition which rendered the plaintiff vulnerable to that condition becoming symptomatic. Plaintiff failed to mitigate damages by performing therapeutic exercises.
							July 7, 1992 Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Bell v. Tilden Rental Inc.</i> , (1997), 47 Alta. L.R. (3d) 251 (C.A.). Claims: Whiplash Chronic Myofascial Pain		F		Continued complaints up to time of trial.	Upheld award of \$25,000.00 Inflationary Update \$30,850.00	Justices Harradence McFayden Hunt	October 16, 1996	Trial judge's findings upheld. In particular, found plaintiff not entirely credible. Trial judge found that the plaintiff suffered moderate whiplash injury and was suffering from chronic myofascial pain syndrome continuing to trial but latter not caused by accident. Other intervening causes of plaintiff's continuing pain included marriage problems pre-dating accident and post-accident, accounting for serious emotional stress. Also, plaintiff failed to follow physician's advice.
							Cause of Action Prior to June 1992	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Buchanan v. Wassef</i> (1996), 191 A.R. 89 (Q.B.). Claims: Whiplash	41	F	Contract Courier involves lifting up to 50 lbs; Had planned to start her own courier company	Accident occurred on June 25, 1990. The Court held that the plaintiff suffered a permanent disabling injury (5% impairment) causing constant pain, headaches, and loss of motion as a result of the accident.	\$50,000.00 Inflationary Update \$61,700.00	Mr. Justice Perras	October 16, 1996	The accident appeared minor causing only \$165 in damage to the plaintiff's vehicle. There was evidence that the plaintiff suffered from a pre-existing degenerative disc disease, which the Court found to be asymptomatic but made her neck weak and more vulnerable to whiplash injury. She had been in a motor vehicle accident in 1969 for which she apparently sought chiropractic treatment in 1978 and continued to receive chiropractic treatment between 1980 and 1989. She also suffered stresses in her personal life which Court held were unrelated to her ongoing symptoms. Court found she was not a malingerer.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Versfelt v. Semler</i> , (1996), 192 A.R. 161 (Q.B.). Claims: Whiplash	35	M	Variety of jobs; Owned his own business at the time of trial.	Continued to suffer at the time of trial. The Court however, held that not all of his suffering was attributable to the motor vehicle accident.	\$40,000.00 (less 25% for pre-existing injuries.) Inflationary Update \$49,360.00	Madam Justice Johnstone	November 29, 1996	The plaintiff had 29 accidents from 1976 to the date of the trial, most of which pre-dated the motor vehicle accident. Significantly, the plaintiff was involved in a motor vehicle accident a few months prior to the one sued upon and suffered almost the same arm injury. Due to the complications in determining causation, the Court stated that it was necessary to award a moderate amount for non-pecuniary damages reduced to account for pre-existing conditions.
							Cause of Action	
<i>Hanson v. Heuchert</i> , (1997), 197 A.R. 46 (Q.B.). Claims: Whiplash	22	F	Employed with the AMA	Accident occurred in October of 1992. Much of the pain had diminished by 1995.	\$18,000.00 (reduced by 30% for liability.) Inflationary Update \$21,870.00	Mr. Justice Dixon	January 24, 1997	The plaintiff suffered a mild to moderate whiplash injury from which she continued to suffer periodic neck pain up to trial.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Herold v. MacElwain</i> (1997), 199A.R. 115 (Q.B.). Claims: Orthopaedic Injuries Whiplash	28	F	Worked in collections at a major bank.	The plaintiff was a cyclist injured in an accident where she collided with an open car door in August of 1992. She was 80-90% improved at the time of trial.	\$30,000.00 (reduced by 1/3 for liability) Inflationary Update \$36,450.00	Mr. Justice McBain	March 4, 1997	After looking at the range of damages for similar injuries, the Court turned to factors which would increase the award. In particular, the Court considered the following factors: prior to the accident, the plaintiff was "sports oriented"; she suffered fractures; she injured her shoulder which is a complex joint; she suffered a permanent injury which would be prone to exacerbations of neck and shoulder pain with activities; and, her athletic activities would be limited.
							Cause of Action	
<i>Reynolds v. Pohynayko</i> (1997), 202 A.R. 1 (Q.B.). Claims: Soft Tissue Damage TMJ Emotional Disruption Chronic Pain Depression Brain Injury	16	F	Student	The TMJ injury was serious and the effects would likely continue into the future. The plaintiff also suffered a post traumatic syndrome, leading to increased sensitivity to pain and other emotional problems which would likely have resolved within two years post-accident but continued due to her underlying personality makeup.	\$55,000.00 Inflationary Update \$66,825.00	Madam Justice Bielby	April 21, 1997	The award was lower than more serious TMJ awards such as <i>Beger v. MacAstocker Estate</i> (see severe whiplash case summary) as her injury was less severe. The Court found that the evidence did not support her claim that she suffered a brain injury.
							Cause of Action	
							June 13, 1992	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Harbora v. Mclvor</i> , (1997), 202 A.R. 99 (Q.B.). Claims: Whiplash	37	F	Sales Rep for a surgical supply company	Injuries should have resolved within two years post-accident.	\$40,000.00 Inflationary Update \$48,600.00	Mr. Justice Binder	April 22, 1997	Injuries should have resolved within one year post-accident. Plaintiff suffered from a psychiatric disorder called somatization disorder prior to the accident. Disorder caused her to replace stress with complaints of pain, discomfort and exhaustion. Therefore, it was reasonable to extend recovery to two years post-accident, but injuries not permanent. Court found she would have returned to her original condition one year post-accident but for added stresses unrelated to accident.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Marek Lachowski v. Dowell Schlumberger Canada Inc. et al.</i>, [1997] A.J. No. 528 (Q.B.).</p> <p>Claims: Whiplash Scalp lacerations Myofascial strain Chest contusions Broken rib Left leg pain/ numbness Dizziness Psychological Injury</p>	43	M	Immigrated from Poland where he worked in physical education. In Canada, he worked as a taxi driver and as a hospital porter	The accident was in 1990. The plaintiff's status improved after he consulted a psychologist to deal with the psychological aspect of his injury in 1995.	\$38,000.00 Inflationary Update \$46,170.00	Mr. Justice J.S. Moore	May 20, 1997	Before the accident, the plaintiff was no "couch potato", after the accident, he was. His loss was viewed by the Court as more than that of a sedentary person. Note that plaintiff's symptoms persisted long after his physical injuries should have healed. His physical injuries were somehow converted into psychological symptoms which the psychologist was able to cure. The plaintiff was not penalized for failing to see a psychiatrist until five years post-accident. The plaintiff was not a malingerer and he was generally found to be credible (except on his evidence regarding loss of income).
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Foo-Fat v. Ahmed</i> (1997), 57 Alta. L.R. (3d) 388 (Q.B.). Claims: Whiplash	12	F	Dedicated and accomplished musician; played the viola and violin.	The injury should have resolved within eight to 12 weeks post accident. Plaintiff's complaints continued to trial.	\$30,000.00 Inflationary Update \$36,450.00	Mr. Justice Dixon	October 10, 1997	The plaintiff experienced pain for a very long time. She was significantly improved by the time of trial but experienced flare ups of low back pain for one week every five weeks. She attended for medical treatment sporadically since the accident but she was a stoic and reserved individual. She only raised the issue of her back pain when she was significantly stressed. She did not fail to mitigate. She was found to be honest, reliable, and the opposite of a malingerer. Note that the defendant suggested that the cause of the plaintiff's ongoing complaints were due to the unrelenting practice and performance grind undertaken by a young and slight artist. The Court rejected the notion that this should assist the defence because even if her post accident practice regime aggravated the injury, it was a non-tortious cause and should not serve to reduce damages as per <i>Athey v. Leonati</i> (SCC).
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Philip v. Hironaka</i> (1997), 210 A.R. 1 (Q.B.). Claims: Spinal compression fracture Soft tissue injury to shoulder Lacerations and bruising to head	29	M	Truck Driver and Heavy Equipment Operator	Pain continued to date of trial.	\$45,000.00 Inflationary Update \$54,675.00	Mr. Justice Girgulis	November 7, 1997	Court concluded that the plaintiff's injuries were permanent in nature.
							Cause of Action	Plaintiff made reasonable efforts to find alternative employment.
							August 30, 1990	Court found that the plaintiff's failure to wear a seatbelt did not cause or contribute to his injuries.
<i>Stevens v. Okrainec</i> , (1997), 210 A.R. 161 (Q.B.). Claims: Whiplash Head Injury Chronic Pain	35	F	Accountant	Had the plaintiff not suffered from a pre-existing degenerative arthritic neck condition, her injuries should have resolved within 18 months to two years. Because of the pre-existing condition, her injuries should have resolved within four years.	\$45,000.00 Inflationary Update \$54,675.00	Madam Justice Nash	November 25, 1997	The evidence did not establish chronic pain or head injury.
							Cause of Action	Court found that the plaintiff exaggerated the degree of pain and the existence of pain.
							November 17, 1990	Award based on moderate whiplash injury with attendant headaches, numbness and tingling in the arms which should have resolved within four years.

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Onofriechuk v. Dolman</i> (1998), 58 Alta. L.R. 296 (3d) (Q.B.). Claims: Scalp contusion Whiplash Required breast reduction	28	F		The plaintiff continued to complain of soreness in her shoulders and numbness in her arm at the time of trial.	\$16,000.00 for whiplash (reduced by \$3,000.00 for failure to mitigate.) Inflationary Update \$19,264.00	Mr. Justice McBain	February 5, 1998	The Court found the plaintiff suffered a mild to moderate whiplash injury (case could also be considered in the mild category). The Court found that the plaintiff failed to mitigate. She could not give satisfactory evidence as to why she did not pursue physical therapy treatment despite the evidence that this treatment would likely have helped.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Hilliard v. Grabinski</i> (1998), 221 A.R. 201 (Q.B.). Claims: Multiple contusions Soft Tissue Injuries	40	F	Mother	Plaintiff's complaints continued to time of trial. She claimed to have suffered a permanent injury to the lumbosacral area of her back.	\$25,000.00 Inflationary Update \$30,100.00	Mr. Justice Lee	May 29, 1998	The Court found the plaintiff was clearly injured in the accident and that she suffered some ongoing pain. Surveillance videos showed her to be more capable of strenuous activities than what she testified. Her demeanor at trial and display of physical discomfort did not match the normal movement seen in the videos. Her complaints also did not match what was recorded in the treatment notes and charts. In addition, she failed to seek treatment on a regular basis, and some non-attendance periods lasted four months to two and half years. Also, she aggravated her low back condition when she slipped and fell on ice in 1996.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Smith v. Smart</i> (1998), 62 Alta. L.R. (3d) 126 (Q.B.). Claims: Whiplash Droopy left eyelid and lip		M		At the time of trial, the plaintiff continued to experience headaches a number of times per month. He also experienced ongoing pain and stiffness in the right side of his neck, and these problems continued to the date of trial.	\$40,000.00 Inflationary Update \$48,160.00	Madam Justice Sulyma	June 11, 1998	X-rays revealed a pre-existing degenerative disc disease in the cervical spine. The pre-existing condition worsened the prognosis for recovery. There was a 5% impairment. The defendant failed to show the condition would have been symptomatic in any event. The entire 5% impairment was found to be due to the accident. The Court found that the plaintiff suffered from headaches and neck pain since the accident. He continued to experience pain at the time of trial and his activities and enjoyment of life had been impacted.
							Cause of Action	
<i>Neigel v. Ciplak</i> , [1998] A.J. No. 1779 (Q.B.). Claims: Whiplash	22	F		The majority of the plaintiff's problems disappeared within one year post-accident. A partial disability was minimal at the time of trial.	\$22,000.00 Inflationary Update \$26,488.00	Mr. Justice Murray	September 18, 1998	The plaintiff was said to have suffered a moderate neck and to a lesser extent, back injury of the soft tissue variety. The evidence established that the plaintiff would be left with no permanent disability and that any remaining problems would disappear within one year of trial.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Henhoeffer v. Lin</i> , [1999] A.J. No. 501 (Q.B.). Claims: Whiplash Related Injuries (occasional pain radiation into arms and right leg with dizziness and disorientation)	61	M	Upholsterer and Carpenter; prior occupations included farming, the military and the energy industry; grade 8 education.	Plaintiff's condition stabilized after 22 months at 2.5% impairment of the whole body.	\$45,000.00 Inflationary Update \$53,235.00	Mr. Justice Lutz	January 14, 1999 Cause of Action	Injuries resulted from a front-end collision wherein his vehicle air bag deployed and struck his partially turned head. The plaintiff had prior lower back and leg problems and sought, from time to time, medical attention for them but were not sufficient to result in him slowing down or ceasing employment. His prior condition made him more vulnerable to a whiplash type injury and this accident was the last straw that took the plaintiff away from his employment. Damages award is noted to be able to be higher as a result of the plaintiff being older.
							February 25, 1995	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>S.A.B. v. Drift Development Ltd.</i> (1999), 236 A.R. 145 (Q.B.).</p> <p>Claims: Whiplash (neck and back injuries) Chronic Pain Emotional and Psychological Injuries</p>	47	M	Trucking and farming; limited education.	Continued to complain of pain to trial.	\$60,000.00 Inflationary Update \$70,980.00	Mr. Justice Binder	February 22, 1999	Prior existing degenerative changes and arthritis and the injuries resulting from the accident caused the plaintiff's pain to become chronic, severe and permanent. Plaintiff did not fail to mitigate damages by not attending a rehabilitation clinic that he was not advised about. Clinical impairment of the plaintiff was assessed at 15% of the whole person. The Court noted that this assessment does not measure pain and was strictly tied to range of motion only. This range of motion assessment does not equate to intensity of pain which can be less, or in this case, greater.
							Cause of Action	
<p><i>Lowry v. Cram</i>, [1999] A.J. No. 911 (Q.B.); (1999), 249 A.R. 157 (Q.B.).</p> <p>Claims: Whiplash (Neck and Low Back Pain) Psychological Injuries Chronic Fibromyalgia</p>	37	F	Various low wage jobs.	Four years for recovery to plateau after second accident (second accident one year after first).	\$45,000.00 (global amount for two accidents.) Inflationary Update \$53,235.00	Mr. Justice J.S. Moore	July 22, 1999	Damages assessed globally and reduced based upon "crumbling skull" principle by 35% to determine amount for this second accident. Had a pre-existing low back condition prior to both accidents.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Prusak v. Tranter</i> , [1999] A.J. No. 1291 (Q.B.); (1999), 253 A.R. 289 (Q.B.). Claims: Whiplash Right Wrist Injury			Various including: process serving, preparing income tax returns, accounting and legal secretary.	Potentially roughly one and a half years, but continued with massage therapy for 23 months post-accident.	\$20,000.00 Inflationary Update \$23,660.00	Mr. Justice Dea	November 12, 1999	Low back pain and left leg injuries were rejected by the Court as being connected to this accident. The Court did not accept the plaintiff as an accurate reporter of her injuries.
							Cause of Action	
							March 4, 1994	
<i>Vershoor v. AGT Ltd.</i> (1999), 253 A.R. 342 (Q.B.). Claims: Whiplash (neck and low back) Chronic Pain		F	Homemaker, occasional bookkeeping for husband's welding business.	Back condition plateaued just over 11 months post-accident to remain at a permanent clinical impairment of 6 to 7%. Her low back strain was held to have not resulted in any permanent long-standing disability and any pain or loss of function from this complaint was occasional and minimal.	\$50,000.00 Inflationary Update \$59,150.00	Madam Justice Sulyma	November 30, 1999	Plaintiff was found to have failed to mitigate her chronic pain complaint by not attending at a more extensive rehabilitation program as recommended by her doctor. This contributed to the long-standing nature of the damage from injury.
							Cause of Action	
							November 26, 1991	
<i>Stuwe v. McLeod</i> (2000), 254 A.R. 296 (Q.B.). Claims: Whiplash	21	F	Co-manager of a retail store.	Full recovery to pre-accident (injured) condition in three years.	\$30,000.00 Inflationary Update \$34,560.00	Mr. Justice Wilkins	January 7, 2000	The plaintiff suffered from a previous accident and was still being treated at the time of this accident. Damages were assessed for this accident based upon her returning to her prior injured condition within three years of this accident.
							Cause of Action	
							September 19, 1993	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Gould v. Holton</i> (2000), 275 A.R. 80 (Q.B.). Claims: Whiplash Lower Back Injury	26	F	Various temporary jobs. Worked only periodically.	Injuries persisted to the date of trial.	\$50,000.00 Inflationary Update \$57,600.00	Mr. Justice Clarke	November 22, 2000	Court found that the Plaintiff did not fail to mitigate her damages by not following through with physiotherapy and chiropractic treatments as they could not cure her injuries. Court held that the whiplash injury had a major impact physically but that the main impact was psychological. Plaintiff had a previous low back injury which was exacerbated by the accident. Court found that the plaintiff was one of the small percentage of whiplash injury victims whose injury did not resolve itself but rather turned into myofascial pain.
							Cause of Action	
<i>Vollrath v. Bruce</i> (2000), 282 A.R. 364 (Q.B.). Claims: Back injury Leg pain	41	M	Sanitation truck driver	Injuries persisted to the date of trial.	\$50,000.00 (reduced by \$25,000.00 due to pre-existing injuries.) Inflationary Update \$57,600.00	Mr. Justice Lewis	December 20, 2000	Court found that the plaintiff suffered from back pain, nerve root impingement and disc degeneration problems prior to the accident.
							April 19, 1995	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Newlands v. Nielsen</i> , [2001], A.J. No. 534 (Q.B.). Claims: Headaches TMJ Neck Strain Trapezius muscle strain Chest pain Thoracic back strain Post-traumatic stress disorder Shoulder strain		F	Plaintiff not working at the time of the accident. Court awarded no loss of income or future loss of income.	Complaints continuing to trial.	\$45,000.00 Inflationary Update \$50,535.00	Mr. Justice Clarke Damages assessment following a binding Judicial Dispute Resolution	April 10, 2001 Cause of Action	Medical evidence accepted by the Court found that the plaintiff experienced a 2% impairment of the cervical spine but that shoulder problems were unrelated to the accident. Plaintiff suffered significant post-traumatic stress disorder and depression following the accident. The Court concluded that post-accident stressors impacted on her PTSD condition.
							August 10, 1997	
<i>Ly v. Gilbert</i> (2001), 2001 Carswell Alta. 1524 (Q.B.). Claims: Whiplash Congenital fusion of the C2-3 vertebra Lumbar strain		F	Installer on an assembly line	Complained of ongoing pain and associated limitations to the date of trial.	\$20,000.00 Inflationary Update \$22,460.00	Madam Justice Nation	October 26, 2001	Plaintiff complained of headaches once or twice a week, neck problems three times a day and upper and lower back stiffness three to four times per week. The Court, in assessing general damages, rejected the plaintiff's evidence and concluded that she experienced occasional neck pain but that her back pain was largely resolved.
<i>Ly v. Gilbert</i> Claims: Whiplash Scoliosis of the left lumbar spine	33	M	Window installer	Complained of ongoing back, head, neck and shoulder pain to the date of trial.	\$25,000.00 Inflationary Update \$28,075.00	Madam Justice Nation	October 26, 2001	The Court concluded that the accident did "affect his life, particularly during the first year, but to a lesser extent thereafter, except for back problems that are variable and largely work related".

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Ewen v. Dias</i> [2001] A.J. No. 1474 (Q.B.). Claims: Whiplash (shoulder injury)	39	M	Welder and lead hand, uneducated with Grade 3 reading level	Injury persisted to date of trial.	\$25,000.00 Inflationary Update \$28,075.00	Mr. Justice Verville	November 21, 2001	The Court accepted that the plaintiff had on-going difficulties and permanent partial disability (3% of whole body) with respect to his shoulder and that he may require surgery on his shoulder sometime in the future.
							Cause of Action	
							July 10, 1998	
<i>Rodriguez v. Patil</i> , [2001] A.J. No. 1485 (Q.B.). Claims: Whiplash (neck, shoulder, upper back)		F	Janitorial and child care services	Injuries persisting to date of trial.	\$38,000.00 Inflationary Update \$42,674.00	Mr. Justice Perras	November 22, 2001	As a result of the motor vehicle accident, the plaintiff had some restricted movement in the cervical spine and shoulder area. The Court found that she would have pain, varying from time to time in intensity, for the rest of her life.
							Cause of Action	
							December 7, 1996	
<i>Smith v. Calgary Co-operative Assn. Ltd.</i> (2002), 310 A.R. 129 (Q.B.). Claims: Whiplash (shoulder, neck, back, thigh, buttock) Psychological injuries	71	F	Recreational dancer	Injuries fully resolved seven months post-accident.	\$20,000.00 (includes housekeeping and special damages.) Inflationary Update \$21,960.00	Mr. Justice Mason	March 22, 2002	The plaintiff had a history of left side complaints related to causalgia and a previous surgery. None of the medical exams or tests supported her pain to date of trial. She was not found to be a credible witness. Her evidence as to how she maintained an active lifestyle prior to the accident did not fit with her medical condition, complaints or past treatments.
							Cause of Action	
							August 8, 1994	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Dear v. Styre</i> (2002), 318 A.R. 115 (Q.B.). Claims: Whiplash (shoulder, neck and upper back) Chronic Pain Psychological injuries		F	Computer programmer and consultant, administrator for financial planner	Injuries persisted to date of trial.	\$35,000.00 Inflationary Update \$38,430.00	Mr. Justice Slatter	May 3, 2002	The plaintiff suffered injuries in a previous motor vehicle accident, and also during a physiotherapy treatment in 1996. The 1997 motor vehicle accident aggravated her pre-existing injuries, interrupted her fertility treatments and caused general depression. 40% of her ongoing disability was attributable to the 1997 motor vehicle accident.
							Cause of Action	
<i>Howes v. Roust</i> a (2002), 331 A.R. 68 (Q.B.). Claims: Soft tissue injuries to back, neck and shoulders Bilateral tendonitis Mild chronic pain syndrome	55	F	Plaintiff held various occupations however, most consistently as a nurse.	Resolved approximately 18 months post-accident but complicated by pre-accident psychiatric problems.	\$45,000.00 Inflationary Update \$49,410.00	Mr. Justice Marceau	December 2, 2002	At the outset, the Court noted that the plaintiff's injuries were largely subjective but found that the plaintiff's chronic pain syndrome was related to the accident and that her mental condition was not due to malingering or deliberate exaggeration. In fixing quantum, the Court concluded that the plaintiff suffered soft tissue injuries and bi-lateral tendonitis in the shoulders while undergoing treatment which resolved within 18 months. The Court concluded that no permanent impairment could be causally related to the accident.
							Cause of Action	
							February 28, 1997	
							February 27, 1997	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Jensen v. Thompson</i> (2002), 328 A.R. 354 (Q.B.). Claims: Whiplash (shoulder and neck)	55	F	Senior Revenue Canada compliance officer	Injuries persisting to date of trial.	\$55,000.00 Inflationary Update \$60,390.00	Madam Justice Erb	December 6, 2002	The Court found that the plaintiff's post-accident symptoms were unlikely to abate in the future, and that they completely curtailed or greatly reduced her athletic activities. The Court took into account the numerous medical treatments she had undergone over an extended period of time, including painful and invasive intramuscular stimulation, and the fact that she was forced to give up an exciting and challenging career prematurely as a result of the accident.
							Cause of Action	
<i>Peakman v. Sogz</i> , [2002] A.J. No.1532 (Q.B.). Claims: Whiplash (neck, back, legs) Psychological injuries	34	M	Glass cutter	Injuries resolved within a few weeks or months from the accident.	\$30,000.00 Inflationary Update \$32,940.00	Madam Justice Rawlins	December 9, 2002	The plaintiff's pre-existing conditions included diabetes, a debilitating arm injury, and two motor vehicle accidents in 1994 and 1995. The Court found that the whiplash injury resulting from the 1999 accident developed into depression and by reason of his diabetes and pre-accident medical history, it would have taken him longer to recover. His employment would have required accommodation for the effects of the 1999 accident for at least two years.
							Cause of Action	
							September 12, 1997	
							June 16, 1999	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Pavicic v. Pelchat</i> , [2003] A.J. No. 319 (Q.B.). Claims: Fractured pelvis Injury to sacroilic joint Neck and back strain Left shoulder strain Sternoclavicular joint strain	51	F	Janitor (on leave due to long-term disability)	The plaintiff continued to complain of accident related symptoms almost eight years post-accident.	\$55,000.00 Inflationary Update \$58,795.00	Madam Justice Johnstone	March 10, 2003	The Court concluded that the plaintiff sustained a pelvic fracture and whiplash type injuries as a result of the accident. The pelvic fracture, in the opinion of the Court, ought to have resolved "quickly without disability". In assessing damages, the Court found that the plaintiff suffered a permanent clinical disablement of 10% of the whole person. In addition, the plaintiff suffered a post-traumatic stress disorder which did not cause significant disability from onset to resolution.
							Cause of Action	
<i>Yu v. Befus</i> , [2003] A.J. No. 1191 (Q.B.). Claims: Soft tissue injury Headaches Memory loss		M	Restaurant Owner	The Court found that, as of the date of trial, the plaintiff continued to suffer residual long term and depression.	\$40,000.00 Inflationary Update \$42,760.00	Madam Justice Kenny	September 8, 2003	The Court concluded that the plaintiff sustained a "mild to moderate soft tissue injury". In assessing general damages, the Court found the "generalized pain" primarily on the left hand side continued to affect the plaintiff's left shoulder and arm and chest wall. In addition, he continued to experience constant headaches and resultant memory loss.
							Cause of Action	
							October 13, 1999	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Pfob v. Bakalik</i> , [2003] A.J. No. 1204 (Q.B.) upheld on appeal at [2004] A.J. 1025 (C.A.). Claims: Muscular skeletal injury Post concussion syndrome	40	M	Contract courier	The plaintiff's low back pain resolved approximately five months post-accident however, concussion related complaints and musculo-ligamentous strain to the neck, shoulders and upper back continued to the date of trial.	\$42,000.00 Inflationary Update \$44,898.00	Madam Justice Erb	September 30, 2003	As a result of the accident, the plaintiff attended at in excess of 300 chiropractic treatments. Notwithstanding considerable debate, the Court concluded that both the post-concussion and whiplash type injuries were caused by the accident. The Court specifically found that "general damages should reflect the fact that Mr. Pfob has had lifestyle changes, periods of continuous difficulty and at other times intermittent problems".
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Barriffe v. Janiten</i> , [2003] A.J. No. 1617 (Q.B.). Claims: Neck and back strain TMJ	40	M	Welder	Complained of chronic pain to the date of trial.	\$30,000.00 Inflationary Update \$32,070.00	Mr. Justice MacCallum	December 19, 2003	The Court concluded that the plaintiff's neck sprain resulted entirely from the accident and that his pre-existing lower back problem was exacerbated by the accident. The Court aggressively found "a complete failure to mitigate". The plaintiff exaggerated his injuries and was both observed and filmed by his neighbour completing manual labour around the house. The plaintiff was entitled to pain and suffering for three and a half years post-accident.
							Cause of Action	
<i>Chriqui v. Duke</i> , [2004] A.J. No. 697 (Q.B.) Claims: Whiplash symptoms Multiple sclerosis symptoms Depression symptoms		F	Operated residential and commercial cleaning business	Complained of ongoing symptoms to the date of trial.	\$40,000.00 Inflationary Update \$41,960.00	Mr. Justice Chrumka	June 16, 2004	The plaintiff was involved in a rear-end collision on January 10, 1997. The Court found that plaintiff sustained a soft tissue injury as a result of the accident. It was not prepared to conclude that the multiple sclerosis symptoms were triggered by the accident. Likewise, the Court also concluded that the depression symptoms were not triggered as a consequence of the motor vehicle accident.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Delahay v. Holder (Estate)</i> , [2005] A.J. No. 446 (Q.B.) Claims: Rotator cuff injury to right shoulder		F		By June 2000 the plaintiff had benefited from her physiotherapy and massage treatments. She enjoyed good strength, motion and stability in the shoulder.	\$56,000.00 Inflationary Update \$57,512.00	Mr. Justice Hart	April 18, 2005	The Court found that Ms. Delahay failed to mitigate her damages by neglecting to attend physiotherapy and massage treatments after June of 2000. This resulted in a 20% reduction in her award.
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Lynne v. Taylor</i>, [2006] A.J. No. 18 (C.A.)</p>						<p>Justices Russell, Paperny and O'Brien</p>	<p>January 13, 2006</p>	<p>The plaintiff appealed on the basis of whether or not the subject accident caused or materially contributed to her condition of fibromyalgia.</p> <p>The Court of Appeal concluded that the "trial judge misapprehended the evidence" on the issue of the plaintiff's fibromyalgia. It also concluded that the trial judge "failed to properly apply the material contribution test for causation" which "caused him to overlook relevant evidence".</p> <p>The appeal was allowed and a new trial ordered on the basis that "the evidence must be assessed afresh to determine whether the accident caused or contributed to [the plaintiff's] fibromyalgia and the inquiry must include whether it caused any pre-existing symptoms to become worse".</p>

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Gilroy v. Schmidt</i>, [2006] A.J. No. 328 (Q.B.)</p> <p>Claims: Headaches Neck pain Shoulder pain Disc herniation</p>	44	M	Accountant	Chronic neck and shoulder pain with headaches continuing to the date of trial	\$40,000.00	Madam Justice Rowbotham	March 23, 2006	<p>The Court determined that the evidence clearly established that the plaintiff had pre-existing degenerative changes to his cervical spine but that he did not suffer from them prior to the accident. The accident aggravated that pre-existing condition such that the plaintiff suffered chronic neck and shoulder pain and headaches.</p> <p>The Court specifically found a "moderate soft tissue injury of a chronic nature". The Court was not prepared to find that the plaintiff's disc herniation and resulting neurological symptoms were caused by the accident.</p>
							Cause of Action	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Katish v. Mergaert</i> , [2006] A.J. No. 832 (Q.B.) Claims: Depression Anxiety Neck pain Right shoulder pain Thoracic spine pain Left lower back pain Headaches		F		The plaintiff claimed that she had ongoing soft tissue complaints to the date of trial	\$40,000.00	Mr. Justice Lee	July 6, 2006	The plaintiff was involved in two prior motor vehicle accidents in the early 1990s. She also had multiple "stints in hospital for significant depression in the mid-1999s, while she was going through" a divorce. The Court acknowledged that the plaintiff "did suffer at least a whiplash injury" as a result of the subject accident. The issue was whether or not various other complaints, particularly ongoing low back pain, were caused by the accident. The Court concluded that the plaintiff's soft tissue whiplash injury should have resolved in a matter of months and that her ongoing problems had "origins other than this low speed collision". The Court awarded general damages of \$40,000.00 "net of pre-existing conditions for the Plaintiff's 2000 whiplash injury".
							Cause of Action	
							December, 2006	

ALBERTA MODERATE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Wensel v. Calgary</i> , [2007] A.J. No. 402 (Q.B.) Claims: Headaches Earaches Fractured teeth Snapped jaw Sore neck Thoracic numbness Lumbar pain Leg pain Dizziness Loss of balance Fogginess Noise disruption Confusion Disorientation Difficulty sleeping Difficulty breathing	61	F	Registered Nurse	The plaintiff claimed that the soft tissue injuries persisted for 18 months post-accident	\$35,000.00	Mr. Justice Macleod	April 5, 2007	The plaintiff argued that the Court should take a "segmental approach" and award damages for a soft tissue injury and a mild brain injury separately. The Court rejected that argument on the basis that there was a large amount of overlap between the symptoms. The Court concluded that the plaintiff suffered a 16 month soft tissue injury that included injury to her neck and upper back, dizziness and aggravation of her lower back symptoms. She also suffered a "Mild Traumatic Brain Injury" on the "mildest end of the spectrum".
							Cause of Action	
							April 2, 2003	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>McLaren v. Schwalbe</i> (1994), 16 Alta. L.R. (3d) 108 (Q.B.). Claims: Whiplash	34	F		Five years, continuing up to the date of trial.	\$60,000.00 Inflationary Update \$76,920.00	Madam Justice Picard	January 26, 1994	The plaintiff was a credible witness. But for the accident, the plaintiff would not have required a spinal fusion surgery.
							Cause of Action	
							January 22, 1989	
<i>Martorana v. Lee</i> (1994), 17 Alta. L.R. (3d) 409 (Q.B.). Claims: Whiplash Chronic Pain	48	F	Sewing Machine Operator	Plaintiff still complaining of severe pain five and a half years post-accident, but three years and three months considered by the Court to be reasonable recovery time.	\$30,000.00 Inflationary Update \$38,460.00	Mr. Justice Lomas	February 18, 1994	Fairly severe injury. The Court reviewed the evidence and was of the opinion that the plaintiff's lack of conditioning, lack of exercise, general inactivity and increasing weight had all contributed to her continued pain. She failed to prove that her continuing chronic pain was attributable to the accident. She also discontinued physiotherapy after one year and ignored medical recommendations.
							Cause of Action	
							August 26, 1989	
<i>Hunter v. Lobb</i> (1994), 158 A.R. 157 (Q.B.). Claims: Whiplash Contusion to Left Shin	27	M	Student		\$40,000.00 Inflationary Update \$51,280.00	Mr. Justice Deyell	August 10, 1994	The evidence of the plaintiff was exaggerated as to the length of time and intensity of pain.
							Cause of Action	
							December 16, 1986	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Van Paassen v. Burch</i> (1994), 159 A.R. 365 (Q.B.), varied on appeal at [1995] A.J. No. 1044. Claims: Whiplash	46	M	Welder with specialized tickets	The plaintiff's pain endured to varying degrees up to the date of trial.	\$55,000.00 (less 25% for liability.) (At trial, the award was reduced a further 10% for failure to wear seatbelt - reversed on appeal.) Inflationary Update \$70,510.00	Mr. Justice Dixon	October 6, 1994	The plaintiff suffered significant pain in his lower back and right leg areas and this pain persisted, to varying degrees, since shortly after the accident to the time of trial. The plaintiff also suffered from a pre-existing condition.
							Cause of Action	
<i>Nicoll v. Lanz</i> (1995), 29 Alta. L.R. (3d) 163 (Q.B.). Claims: Whiplash Broken Rib Depression	25	F	Secretary/ Truck Driver	Unable to work 18 months after the accident and continued to receive treatment for her injuries thereafter (despite that fact that no clinical abnormalities had been found).	\$40,000.00 (less 25% for liability.) Inflationary Update \$50,200.00	Mr. Justice Langston	March 24, 1995	In addition to her physical injuries, the plaintiff was emotionally depressed after the accident.
							Cause of Action	November 22, 1989

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Gilchrist v. Oatway</i> (1995), 168 A.R. 56 (Q.B.), affirmed on appeal at (1997), 46 Alta. L.R. (3d) 64 (C.A.).</p> <p>Claims: Whiplash Fibromyalgia</p>		F		Continued to time of trial with some improvement over time.	\$40,000.00 Inflationary Update \$50,200.00	Mr. Justice McDonald	April 18, 1995	The Court was satisfied on the evidence that the plaintiff was suffering from fibromyalgia caused by the accident. Her pre-accident history was unremarkable and gave no indication of the development of fibromyalgia. (Compare this decision with <i>Mackie v. Wolfe</i> where fibromyalgia was completely rejected by Justice Rawlins.) She was a genuine witness who moderated her complaints and she demonstrated a desire and made an effort to return to her daily life.
							Cause of Action	
<p><i>Brouwer v. Grewal</i> (1995), 30 Alta. L.R. (3d) 244 (Q.B.)</p> <p>Claims: Whiplash TMJ/Broken Teeth Depression</p>		F		Complaints continuing to date of trial.	\$55,000.00 (\$25,000.00 for the emotional injury, and \$30,000.00 for pain and suffering.) Inflationary Update \$69,025.00	Mr. Justice Marshall	May 31, 1995	In this case, the plaintiff was rear ended by a police vehicle that had lost control on ice. The female plaintiff's neck was turned at the point of collision causing her to suffer a soft tissue injury to her neck and shoulders, TMJ and four cracked teeth. She developed severe depression as a result of the ongoing pain.
							Cause of Action	
							January 25, 1992	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Brouwer, supra.</i> Claims: Whiplash	34	M	City Bus Driver	Permanent disability of 7%.	\$50,000.00 Inflationary Update \$62,750.00	Mr. Justice Marshall	May 31, 1995	The male plaintiff would not be able to work without pain, he was confined to splint shifts and driving buses with power steering and he would no longer be able to engage in active sports.
							Cause of Action	
							January 25, 1992	
<i>Beger v. MacAstocker Estate</i> (1996), 45 Alta. L.R. (3d) 16 (Q.B.). Claims: Whiplash TMJ Post Traumatic Stress Disorder Fibromyalgia	48	F	Part-time Instructor at NAIT	Accident occurred May 1988. Whiplash injury persisting until trial; TMJ problem also persisting until trial, and requiring future care; ongoing psychological injury (post-traumatic stress disorder).	\$70,000.00 Inflationary Update \$86,380.00	Mr. Justice Ritter	November 15, 1996	The accident occurred when the defendant's vehicle rear-ended the plaintiff's vehicle at a high rate of speed at a rural intersection. Immediately following the accident, the defendant began to beat up the plaintiff and sexually assault her. At trial, the Court found that despite some inconsistencies in the evidence, the plaintiff was a truthful and credible witness. She had suffered both a significant physical and psychological injury. None pre-existed the accident or could be blamed on the plaintiff. Evidence did not support finding of fibromyalgia.
							Cause of Action	
							May 28, 1988	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Chan v. Maguire</i>, [1997] A.J. No. 413, affirmed on appeal at [1999] 2 W.W.R. 67 (Q.B.).</p> <p>Claims: Soft Tissue Injury Sprain to left buttock and hip</p>	20	F	Medical Student	Continuing to time of trial; indefinite prognosis for recovery.	\$60,000.00 Inflationary Update \$72,900.00	Madam Justice Kent	February 27, 1997	The plaintiff suffered a significant loss in the quality of her life. She was a good student who became a mediocre student. She withdrew from social activities. She was concerned with her ability to have children. The Court was satisfied that her condition would not improve in the foreseeable future and that she would continue to suffer pain and discomfort for the indefinite future. However, there was no convincing evidence that the problem would worsen. The Court considered the plaintiff's loss of enjoyment of her professional career in setting damages.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Quinton v. Deboice</i> (1997), 204 A.R. 60 (Q.B.). <u>Claims:</u> Severe Whiplash Chronic neck and back pain Headaches Depression/Anxiety	39	M	Self-employed sand blaster and industrial painter with secure sub-contract	The plaintiff's back pain was permanent.	\$40,000.00 Inflationary Update \$48,600.00	Mr. Justice Moshansky	June 23, 1997	Accident occurred in April 1992. By March 1995, the plaintiff had chronic pain including headaches, back and shoulder pain. The Court found that he had suffered a severe soft tissue whiplash injury to the neck and back, including damage to his spine indicated by vertical lipping. He developed symptoms of depression and suffered prolonged bouts. His back pain was permanent but overall his condition was helped by active therapy and depression medication. He would never again be able to resume physically arduous occupations.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Bourassa v. Ryan</i> (1997), 58 Alta. L.R. (3d) 362 (Q.B.). Claims: Whiplash	52	M	Roofer prior to accident; has no real trade or profession, illiterate.	Found to have suffered an impairment of the whole person to the extent of 20% due to the accident.	\$45,000.00 Inflationary Update \$54,675.00	Mr. Justice Power	June 27, 1997	Notwithstanding evidence of low impact collision, Court found that the plaintiff suffered a permanent disabling injury as a result of a rear end collision. The plaintiff had a degenerative disc disease prior to the accident which left his low back more vulnerable to whiplash injury. The plaintiff was found to be credible and not a malingerer. Plaintiff found to have genuinely suffered a disabling injury and did everything he could to rehabilitate himself.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Morris v. Budnarchuk</i> (1997), 204 A.R. 197 (Q.B.). Claims: Laceration to side of head Broken/cracked rib Neck and shoulder pain Right elbow pain Carpal tunnel in wrist Right knee pain	58	F	Occupation Training Consultant	The plaintiff had been in three accidents prior to the November 3, 1993 accident in which she sustained the injuries claimed. She had pre-existing back and shoulder pain. By the time of trial, her neck and back had resumed pre-accident status. It was said she had increased pain in this area for a couple of years after the accident. The other problems persisted.	\$90,000.00 Inflationary Update \$109,350.00	Mr. Justice Sanderman	June 28, 1997	The fourth accident was the most severe. The plaintiff found relief through home based physiotherapy. The Court assessed the award by considering the plaintiff's injuries globally and also the fact that the loss of amenities of life caused by the accident were significant. Note: this case may be better placed in the moderate whiplash category if one were to consider the damages for that injury alone. However, as the Court assessed damages globally, it is not possible to determine what the award for the shoulder and back injury alone would have been, so we have placed this case in the severe category due to the overall nature and effect of the injuries.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Lowe v. Larue et al.</i>, [1998] 6 W.W.R. 760 (Q.B.), general damages upheld at (2000), 76 Alta. L.R. (3d) 9 (C.A.).</p> <p>Claims: Lacerations to face, head arms Broken ribs Whiplash Severe and Permanent Injury to right wrist</p>	32	F	Masters of Music Degree in Trumpet from top U.S. school	Wrist injury was soft tissue in nature and had not improved at all by the time of trial. It was permanent.	\$65,000.00 Inflationary Update \$78,260.00	Mr. Justice Hembroff	January 9, 1998	The plaintiff was found to be entirely credible. The wrist injury deprived her of her gift for playing music. This caused her to experience some emotional pain. Note that none of the other injuries, except for the broken ribs, were mentioned by the trial judge. With respect to the wrist, although there was no explanation for why the injury had not healed, there was objective evidence of injury and no one suggested that the pain was not real. The plaintiff was in constant pain, and the wrist injury prevented her from completing numerous daily tasks such as driving, washing dishes, dressing etc.
							Cause of Action	
<p><i>Atkinson v. McGregor</i> (1998), 66 Alta. L.R. (3d) 289 (Q.B.).</p> <p>Claims: Tear of small bowel Bruising Fractured spine without paralysis Emotional pain Torn back muscles Leg pain</p>		F	High School Student	By the time of trial, the plaintiff still experienced daily pain, but it fluctuated.	\$85,000.00 Inflationary Update \$102,340.00	Madam Justice Veit	June 5, 1998	The plaintiff had a 12% permanent impairment with significant physical and emotional suffering. There was some mention that the plaintiff failed to mitigate her loss by taking advantage of psychological and vocational counselling.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Lylock v. Phan</i> (1998), 235 A.R. 13 (Q.B.). Claims: Whiplash Fibromyalgia		F	Police Officer (six years from retirement)	Continuing to trial.	\$40,000.00 Inflationary Update \$48,160.00	Mr. Justice Shannon	December 7, 1998	The plaintiff suffered back, neck and shoulder pain as a result of the accident. Two years later she was diagnosed with fibromyalgia which the Court found was attributable to the accident. The plaintiff attended physiotherapy and continued to work but cut back on athletic activities she enjoyed, and constantly fought fatigue. The Court was satisfied that the accident significantly impacted the plaintiff's prior active lifestyle and that this would continue indefinitely. Damages based on both moderate and severe Alberta whiplash cases.
							Cause of Action	
							July 21, 1993	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Wittmeier v. Scholes</i> (1999), 239 A.R. 42 (Q.B.).</p> <p>Claims: Neck pain Low back pain Chronic pain Emotional Problems Sciatic Nerve Impingement</p>		M	Dentist	<p>Most of the injuries sustained in the accident resolved prior to trial. However, at trial the plaintiff was still suffering from an impinged left sciatic nerve that caused him chronic pain on the left side.</p>	<p>\$125,000.00 (reduced by 36% for liability.)</p> <p>Inflationary Update</p> <p>\$147,875.00</p>	Mr. Justice Perras	<p>January 7, 1999</p>	<p>The plaintiff was a young, robust, physically active man prior to the accident. He enjoyed and participated in a wide variety of sports. He also had a lot of stamina and gave a lot of energy to his dental practice. After the accident, his ability to participate in sports was reduced to non-participation due to pain. His pain became chronic, and this was treated by a monitored narcotics program. Since the accident, the plaintiff has suffered extreme emotional stages from depression to extreme optimism. It was found that his whole body was impaired by 10%. The sciatic nerve irritation and its impact was given the most significant consideration by the Court when setting damages.</p> <p>The Court found the plaintiff was sufficiently credible and had done everything reasonable to mitigate his damages.</p>
							<p>Cause of Action</p> <p>November 13, 1990</p>	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Whitfield v. Calhoun</i> (1999), 242 A.R. 201 (Q.B.). Claims: Whiplash Chronic Pain (back and neck) Psychological Injuries (Personality Disorder)	24	M	Welder	More than eight years post-accident, the plaintiff still was limited in his physical abilities as a result of his neck and back pain.	\$85,000.00 Inflationary Update \$100,555.00	Madam Justice Paperny	March 24, 1999	In his youth, the plaintiff had been diagnosed with a personality disorder and the accident made this prior condition significantly worse. The Court applied the "crumbling skull" principle. The plaintiff was diagnosed post accident with a "schizoid, paranoid, personality disorder".
							Cause of Action	
<i>Hughes v. Gillingham</i> (1999), 247 A.R. 201 (Q.B.). Claims: Whiplash TMJ Emotional Injuries Headaches	42	M	Shipper-receiver	Complaints continued to trial.	\$65,000.00 Inflationary Update \$76,895.00	Mr. Justice Lefsrud	July 6, 1999	Pre-existing problems included: hemophilia, hepatitis, HIV positive, arthritis in joints, osteoarthritis, and severe back problems. The plaintiff was assessed based on "crumbling skull" principles. The Court concluded that the plaintiff's injuries could be diagnosed as a moderately severe whiplash, TMJ, emotional distress (anxiety), but substantially reduced the damages award due to pre-existing conditions.
							Cause of Action	
							September 30, 1990	
							June 11, 1995	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Cherwoniak v. Walker</i> (1999), 81 Alta. L.R. (3d) 214 (Q.B.); Aff'd [2001] A.J. No. 859 (C.A.).</p> <p>Claims: Whiplash (disc herniation) Fractured Ribs Chest Pain</p>	57	M	Regional Parts Manager for General Motors.	Continued to complain of pain to trial.	\$75,000.00 Inflationary Update \$88,725.00	Mr. Justice Mason	September 10, 1999	Prior back surgery in his 30s with occasional lumbar strain and back spasms, but basically recovered prior to accident. Post-accident back condition related entirely to accident. The plaintiff's serious back injury was not noticed immediately after accident due to being masked by other pain. Back pain due to disc herniation increased for roughly three years post-accident until it was no longer controllable with narcotics and two risky surgeries were required. A reasonable recovery occurred post-surgery but the plaintiff will continue to suffer pain, discomfort and restriction in the short and long term future.
							Cause of Action	
<p><i>Khalil v. Gunn</i> (1999), 254 A.R. 238 (Q.B.).</p> <p>Claims: Whiplash Soft tissue injuries to knees and shoulder Chronic Pain Psychological Injuries</p>	49	F	Realtor	Not fully recovered from injuries by time of trial (more than six years post-accident).	\$60,000.00 Inflationary Update \$70,980.00	Mr. Justice Medhurst	December 8, 1999	The plaintiff was found to be a "thin skulled" victim. The Court found the plaintiff prone to exaggeration but was not a malingerer. It was also noted that the plaintiff did not follow the recovery program suggested to her which may have aggravated her damages.
				The Court noted that she will continue to have discomfort in her work for some time.			Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Lam v. Sorochan Estate</i> (2000), 259 A.R. 270 (Q.B.). Claims: Lower Back Strain	45	M	Registered Engineering Technologist	Continuing to date of trial.	\$80,000.00 Inflationary Update \$92,160.00	Mr. Justice Murray	February 17, 2000	The Court deemed the action to be a "unique case in that the plaintiff was seriously physically impaired prior to the accident". The plaintiff had contracted polio at the age of nine months and as an infant had had a laminectomy of the L4-5 of his lumbar spine. The Court concluded that the accident was the cause of the plaintiff's injury and that but for the accident the plaintiff would have been functionally independent for many years. The Court was satisfied that further physio and occupational therapy would not materially improve the plaintiff's position.
							Cause of Action	
<i>Guthmiller v. Krahn</i> (2000), 268 A.R. 369 (Q.B.). Claims: Soft tissue injuries to the head and neck		M	Track hoe operator	Continuing to date of trial.	\$65,000.00 Inflationary Update \$74,880.00	Mr. Justice McIntyre	June 27, 2000	The Court concluded that the plaintiff's injuries were quite severe in that he was unable to stand still for more than 20 minutes, his neck was in constant pain, he had constant generalized headaches, he now has an abnormal head position with reduced range of motion of the head and pain in the left elbow.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Ye v. McConnell</i>, [2001] 6 W.W.R. 562 (Q.B.).</p> <p>Claims: Soft tissue injuries to the neck, shoulder and back</p>	35	M	Welder	Continuing to date of trial. (Court of the view that injuries would persist for another year.)	\$70,000.00 Inflationary Update \$78,610.00	Mr. Justice Hawco	January 15, 2001	<p>The plaintiff was a refugee who came to Canada in 1995. His history (solitary confinement for four years, combat as a freedom fighter) was deemed to be relevant to state of health at trial.</p> <p>Soft tissue injuries to the plaintiff's neck, shoulder and back left him with a permanent impairment of 7%.</p> <p>The plaintiff was served with divorce papers one year post-accident which caused significant psychological problems. The Court was of the view that the accident was at least a partial cause of the plaintiff's post-traumatic stress disorder.</p>
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Dushynski v. Rumsey</i> (2001), 94 Alta. L.R. (3d) 26 (Q.B.). Claims: Soft tissue injuries to the neck and shoulders Spinal and back injuries Leg injuries TMJ Kidney Damage Chronic Pain Syndrome	42	F	Part-time custodian and cafeteria worker	Continuing to date of trial (range of motion had returned two years post-accident with continuing pain)	\$125,000.00 Inflationary Update \$140,375.00	Madam Justice Moen	June 14, 2001 Cause of Action	The plaintiff was a victim of four accidents between 1985 and 1993. This action involved the effects of the fourth accident. Prior to the fourth accident, the plaintiff had returned to work on a full-time basis. The Court concluded that the fourth accident caused neck and shoulder injuries with severe pain limiting the plaintiff's range of motion until December 1995 and thereafter there was continuing pain. In addition, the fourth accident caused severe spinal strain in the cervical and lumbar spine.
							October 3, 1993	
<i>Dushynski v. Rumsey</i> , (2003), 16 Alta. L.R. (4 th) 237 (C.A.).						Justices McFadyen Picard Ritter	May 23, 2003	The Court of Appeal upheld the trial division general damages award. The Court of Appeal specifically concluded that "the general damage award of \$125,000.00 may well be at the high end but we find it is not so far out of line that this court ought to interfere with the decision of trial judge who had extensive opportunity to assess the respondent and the medical evidence".

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Moser v. Derksen</i> (2002), 6 Alta. L.R. (4th) 107 (Q.B.).</p> <p>Claims: Soft tissue injuries to neck and lumbar spine Pain radiating into right arm and thumb Frontal occipital headaches</p>	42	F	Secretarial Work	Musculoligamentous injury to neck and back should have resolved within 21 months to two years after the first accident.	\$60,000.00 Inflationary Update \$65,880.00	Madam Justice Rowbotham	July 15, 2002	The plaintiff was involved in three motor vehicle accidents in 1995. As a consequence of the accidents, the plaintiff suffered moderate soft tissue injuries. Prior to the accidents, the plaintiff was diagnosed with somatization disorder. The Court concluded that the accidents aggravated the pre-existing psychological condition. In setting quantum, the Court made a global assessment that took into account the plaintiff's pre-existing somatization disorder.
							Cause of Action	
							First: April 3, 1995 Second: August 3, 1995 Third: September 29, 1995	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Byron v. Larson</i> , [2003] A.J. No. 359 (Q.B.). Claims: Whiplash pain in the neck and back Fibromyalgia Chronic fatigue syndrome Headaches	15, 17	F	Student at time of accidents.	The plaintiff alleged that she continued to suffer from fibromyalgia and chronic fatigue syndrome with attendant psychological problems to the date of trial.	\$60,000.00 Inflationary Update \$64,140.00	Madam Justice Kent	March 18, 2003	The plaintiff was involved in two separate accidents as a teenager. The plaintiff continued to feel some pain prior to the second accident but felt that she was "coping". The Court concluded that fibromyalgia is a syndrome with no known cause which can be triggered by trauma and stress. In assessing general damages, the Court found that the plaintiff suffered from fibromyalgia and chronic pain as a result of the accidents and that she would never be completely pain free.
							Cause of Action	
							First: April 16, 1996 Second: May 25, 1997	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Roth v. Fischer</i> , [2003] A.J. No. 1272 (Q.B.). Claims: Myofascial pain Ligamentous instability		F	Greenhouse labourer and waitress	The plaintiff claimed that her injuries were incapacitating and persisted to the date of trial.	\$65,000.00 Inflationary Update \$69,485.00	Madam Justice Romaine	August 21, 2003 Cause of Action September 25, 1995	The Court accepted that the plaintiff suffered from myofascial pain syndrome as a result of the accident and that the ligamentous injury to the cervical spine was not related to "normal age-related degenerative changes". The Court did however, reject the claim that the plaintiff's headaches were caused by the accident. The Court determined that the plaintiff suffered "relatively significant injuries from the accident that have resulted in a mild but permanent partial disability estimated...as being a 5% impairment of the whole person".

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Lynne v. Taylor</i>, [2004] A.J. No. 755 (Q.B.)</p> <p>Claims: Chest pain Right knee pain Right shoulder pain Right elbow pain Neck pain Shoulder pain Decreased range of motion</p> <p>NOTE: this decision was overturned on appeal. Please see page 57 for summary of appeal decision.</p>	29	F	Working towards completion of Certified Management Accountant program.	Unclear as to when the plaintiff, if ever, returns to her pre-accident state as she has been involved in four previous accidents and one subsequent accident.	\$60,000.00 Inflationary Update \$62,940.00	Mr. Justice Clackson	June 25, 2004	The Court concluded that the plaintiff experienced aggravation of her previous injuries for a period of three years and was left with a permanent disability of 4%. An assessment of the plaintiff's medical condition was extremely difficult in light of the prior accidents and subsequent accident. The Court rejected the plaintiff's claim that her fibromyalgia was caused in whole or in part by the subject's accident.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Flis v. Chan</i> , [2004] A.J. No. 1360 (Q.B.) Claims: Chronic pain		M	Unemployed	Complained of ongoing symptoms to the date trial.	\$60,000.00 Inflationary Update \$62,940.00	Madam Justice Moreau	November 23, 2004	As a consequence of having been involved in an accident in 1993, the Court concluded that the plaintiff was a "crumbling skull". Prior to the 1996 accident, he maintained a "sedentary" lifestyle. The Court set general damages at \$60,000.00 to "compensate the Plaintiff for an initially serious and painful exacerbation of his previous active injuries and for some minor new injuries which, I find, do not materially affect his functionability". The Court was firm that although the 1996 accident had delayed his recovery from his earlier injuries,..."he had been substantially restored to his original position by 2000".
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Dyck v. Wilkinson</i> , [2004] A.J. No. 1155 (Q.B.) Claims: Severe cervical and lumbar strain Disc herniation	19	F	Unemployed at the time of the accident due to pregnancy	Complained of ongoing symptoms to the date of trial.	\$110,000.00 Inflationary Update \$115,390.00	Mr. Justice Rooke	October 8, 2004	The plaintiff was a passenger in her mother's vehicle at the time of the accident. The Court concluded that the plaintiff suffered a mild cervical strain and mild lumbar back strain as well as a "L-5 S1 nerve root compression with disc prolapse (herniation)", causing moderately severe and ongoing back and right leg pain for which surgical intervention was unsuccessful. The Court further found a 13% whole body impairment and the development of post-traumatic anxiety reaction which required pain and stress management counselling.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Goertzen v. Sandstra,</i> [2005] A.J. No. 1134 (Q.B.) Claims: Chronic pain Neck pain Back pain Shoulder pain Major depression Generalized Anxiety Disorder		M	Labourer	Chronic pain continuing to the date of trial.	\$70,000.00 Inflationary Update \$71,890.00	Mr. Justice Hawco	August 23, 2005	The Court concluded that the plaintiff sustained a "mild whiplash" to his neck. The fact scenario however, was complicated by the psychological injuries which the Court concluded were "real" to the plaintiff. This included depression and anxiety. These injuries were exacerbated by a second accident as well as physical conditions and "stresses" unrelated to either accident. The Court concluded that the defendants were not required to compensate the plaintiff for "the additional anxiety that the unrelated stressors" had on the plaintiff. Significant awards were made for past and future lost income.
							Cause of Action	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<p><i>Weston v. Regan</i>, [2006] A.J. No. 1049 (Q.B.)</p> <p>Claims: Scalp Facial injuries Leg injuries</p>		M	Owner of an oil and gas servicing company	Superficial injuries healed quickly however, other injuries persisted to varying degrees to date of trial	\$125,000.00	Madam Justice Kenny	<p>August 18, 2006</p> <p>Cause of Action</p> <p>November 25, 1998</p>	<p>The plaintiff suffered superficial facial injuries and fractured femurs which required the insertion of metal rods. A subsequent left knee ligament tear was also diagnosed. The plaintiff had been unable to walk for several months and was confined to a wheelchair. He had to "learn to walk again".</p> <p>The Court concluded that the injuries sustained by the plaintiff were "quite serious". He regularly attended at physiotherapy for the first several months following the accident however, became frustrated and regressed. As the accident occurred in the course of his employment, the Court concluded, in regard to ongoing treatment, that the plaintiff "failed to appreciate" that his recovery, medical appointments and treatment were his employment at the time. It was the Court's expectation that he would devote his "full energies during that period of time to [his] recovery"</p>

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Imbir v. Barron</i> , [2006] A.J. No. 742 (Q.B.) Claims: Myofascial pain Neck pain Shoulder pain Low back pain Headaches TMJ Numbness and tingling in left arm and fingers Fibromyalgia Insomnia Depression Emotional distress Eating disorder Post Traumatic Stress Memory and concentration Irritability	35	F	Self-employed restaurant/catering business	Ongoing to the date of trial	\$65,000.00	Madam Justice Phillips	June 9, 2006	The Court noted that the plaintiff's complaints were extremely difficult to assess under the circumstances. On the totality of the evidence, the Court concluded that the plaintiff suffered a WAD II "whiplash-associated injury". The Court was not prepared to find that the plaintiff's low back complaints, dysfunctional voiding, jaw pain, cognitive complaints, difficulties swallowing, eating disorder and post-traumatic stress disorder were related to the accident. The Court did find that some depression and sleep difficulties were related to the accident. The Court also specifically found that it was reasonable to conclude that her "pain disorder should have ceased to have a significant impact upon her life" in early 2001. The Court concluded that it was difficult to assess general damages in light of the subject and nature of the complaints and the significant credibility
							Cause of Action	
							October 31, 1998	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
								<p>issues. It was found that the plaintiff had exaggerated the presentation of her evidence.</p>

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Carrier v. Wan</i> , [2007] A.J. No. 481 (Q.B.) Claims: WAD III whiplash Injury to back and spine Sacroiliac joint pain Right hip pain Chronic and disabling pain	57	M	Pipefitter	Ongoing to the date of trial	\$60,000.00	Madam Justice Coutu	April 27, 2007	The assessment of damages was complicated by the fact that the plaintiff "had two or three or, possibly, up to five motor vehicle accidents" before the subject accident. He was also involved in a subsequent accident 17 months later. He also had a hip replacement in 2005. The Court concluded that the plaintiff sustained a WAD III whiplash injury, "including soft tissue injury to his cervical and thoracic spine, lumbar spine, lumbosacral area, pain in the sacroiliac joints with chronic inflammation and chronic pain". He also "suffered from headaches, sleep disturbance and depression". The plaintiff failed to prove that his hip replacement was caused by the accident. In assessing general damages, the Court took into account the "ongoing nature and chronic nature of [his] soft tissue injuries and, his sleep problems and depression and the impact that his injuries have had on his recreational activities".
							Cause of Action	
							July 1, 1999	

ALBERTA SEVERE WHIPLASH CASE SUMMARY - JANUARY, 1994 TO JUNE, 2007

Case Name and Citation	Age	Sex	Occupation	Duration	General Damages Awarded	Judge	Date of Judgment	Circumstances and Details of Injuries Sustained
<i>Thiessen v. Selke</i> , [2007] A.J. No. 400 (Q.B.) Claims: Neck pain Back pain Headaches Whiplash injury	36	F	Meat Trimmer/Butcher	Ongoing to the date of trial	\$60,000.00	Mr. Justice Mahoney	April 11, 2007	The Court found that the plaintiff experienced constant pain in her lower back persisting to the date of trial with difficulties sitting for long periods of time. She could only walk for a few minutes at a time without having to stop, experienced ongoing difficulties sleeping, headaches, shoulder pain and neck pain. Two experts found a permanent disability of a total of 15% to the whole person. The defendant sought to have general damages decreased on the basis that the plaintiff, who weighed approximately 400 pounds at the time of the accident, failed to decrease her weight in the recovery process. The Court concluded that the defendant was unable to establish that the plaintiff had failed to take treatment or failed to try and lose weight in an effort to resolve her injuries.
							Cause of Action	