

Auto accident victim's future as dental hygienist is disputed

Despite not having a job in such a capacity, earning potential was damaged

December 16, 2011

In a lawsuit filed in the Court of Claims in Ingham County, plaintiff Heather Lynn Hannay sought compensatory damages from defendant Michigan Department of Transportation (MDOT) for injuries sustained in an auto accident.

On Feb. 13, 2007, MDOT employee Brian Silcox was driving a state-owned salt truck. He negligently failed to stop at a stop sign and collided with 22-year-old Hannay's car, totaling it.

Hannay injured her right shoulder and neck in the accident. While her neck MRI was negative, it was asserted that it has remained painful since the accident. Further, it was contended, her shoulder has been more problematic, as she has undergone four shoulder surgeries. Her medical records and treating doctors attested to chronic pain syndrome, weakness, and substantial limitations in the use of her non-dominant arm. The un rebutted testimony confirmed that the pain would be permanent.

Before the accident, it was asserted that Hannay was well on her way to becoming a dental hygienist. She had planned on this career since high school, and had initiated all the academic and vocational steps necessary to become a hygienist. Immediately after graduation, she worked as a dental assistant and completed all of her academic prerequisites for admission to dental hygiene school at Lansing Community College. She had not yet been admitted when the crash occurred.

Treating doctors testified she would never be able to work as a hygienist due to her injured shoulder; accordingly, plaintiff claimed work loss based upon the loss of her career. A vocational rehabilitation counselor testified that her injury-related physical restrictions would limit her future employability.

Defendant contended that plaintiff was not entitled to recover work-loss damages based upon a dental hygienist salary, because she was not yet working in that capacity.

The court concluded that plaintiff proved only that she would work part time (60 percent) and awarded \$1,395,852.

Type of action: Third-party automobile negligence

Type of injuries: Permanent right shoulder injury, neck injury, chronic pain syndrome

Name of case: *Hannay v. Michigan Department of Transportation*

Court/Case no./Date: Court of Claims, Ingham County; 09-1360-NI; Nov. 18, 2011

Tried before: Judge

Name of judge: Rosemarie E. Aquilina

Highest offer: \$250,000

Verdict amount: \$1,395,852

Insurance carrier: State of Michigan

Attorneys for plaintiff: David E. Christensen, Sarah S. Stempky

Attorney for defendant: John P. Mack