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## CASE SUMMARY: ONTARIO COURT FINDS LOSS TRANSFER PROVISIONS APPLY TO VEHICLES IN MOTION EVEN IF CHAIN REACTION COLLISION INVOLVES A VEHICLE NOT IN MOTION

**Insurance law – Automobile insurance – No-fault accident benefits – Loss transfer provision – Statutory Accident Benefits Schedule; Practice – Leave to appeal; Arbitration – Enforcement of award**

*Kingsway General Insurance Co. v. Dominion of Canada General Insurance Co.*

Loss transfer provisions of the Fault Determination Rules apply to vehicles in motion even if the collision involves a vehicle that was not in motion.

[2017] O.J. No. 391

2017 ONSC 498

Ontario Superior Court of Justice

January 27, 2017

R. Charney J.

The court heard an appeal from the decision of an arbitrator under the Fault Determination Rules which provide for loss transfer between insurers under Ontario's no-fault accident benefit system.

The case involved a four-vehicle collision on the Gardiner Expressway in Toronto. One of the vehicles was not in motion when the collision occurred and therefore it was argued the loss transfer provisions of the Fault Determination Rules, which provide for loss transfer between vehicles that directly collide but not otherwise, did not apply. The arbitrator agreed and decided the apportionment of fault and indemnification based on ordinary rules of tort law.

The court found that as among the three vehicles that were in motion when the collision occurred, the Fault Determination Rules ought to have been applied and as such there was no loss transfer recovery between the two vehicles which did not directly collide.

This case was digested by [Cameron B. Elder](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact him directly at [celder@harpergrey.com](mailto:celder@harpergrey.com) or review his biography at <http://www.harpergrey.com>.