

Case Name:
Purba v. Ryan

Janie Louise Ryan and Dennis Clifford Ryan
v.
Parmjit Singh Purba and Beant Kaur Purba

[2006] S.C.C.A. No. 387

File No.: 31655

Supreme Court of Canada

Record created: September 29, 2006.

Record updated: February 1, 2007.

Appeal From:

ON APPEAL FROM THE COURT OF APPEAL FOR ALBERTA

Status:

Application for leave to appeal dismissed with costs (without reasons) February 1, 2007.

Catchwords:

Civil Procedure -- Jury trials -- Whether the court has a judicial discretion under rule 234 of the Alberta Rules of Court to order a jury trial in civil actions under \$75,000 -- Whether the Alberta Court of Appeal is permitted to disregard the principle of stare decisis in a manner contrary to its established "reconsideration procedure" and the established practice and precedents of the Court of Appeal.

Case Summary:

Following a motor vehicle accident caused by the alleged negligence of the Ryans, the Purbas filed Statements of Claim claiming damages for personal injury in the sum of \$200,000 each. Approximately four months after filing of the Statements of Claim and before Statements of Defence were filed, each of the Purbas filed an Amended Statement of Claim claiming \$74,000 plus

costs and disbursements. The Ryans then filed a Statement of Defence to each claim and examinations for discovery were held. Thereafter, the Ryans applied to consolidate the two actions and to have the consolidated action proceed before a jury. The Purbas agreed to the consolidation, but opposed a jury trial. The Purbas filed an undertaking limiting their individual damages to those pled in their Amended Statements of Claim. The chambers judge ordered a civil jury trial on the application of the Ryans, even though the amount claimed by each of the Purbas was limited by pleadings and solicitor's undertakings to a sum less than the \$75,000 statutory floor. The Court of Appeal allowed the appeal and set aside the order for a jury trial.

Counsel:

William B. Hembroff (Bryan & Company), for the motion.

Brij Mohan (Brij Mohan & Associates), contra.

Chronology:

1. Application for leave to appeal:

FILED: September 29, 2006. S.C.C. Bulletin, 2006,
p. 1289.

SUBMITTED TO THE COURT: December 18, 2006. S.C.C.
Bulletin, 2006, p. 1638.

DISMISSED WITH COSTS: February 1, 2007 (without reasons).
S.C.C. Bulletin, 2007, p. 122.

Before: Binnie, Deschamps and Abella JJ.

Procedural History:

Judgment at first instance: Applicants' application for a civil jury pursuant to s. 17 of the Jury Act granted. Court of Queen's Bench of Alberta, Wachowich J., January 18, 2006.

Judgment on appeal: Appeal allowed; jury order set aside. Court of Appeal of Alberta, Fraser, Côté and Martin JJ.A., August 2, 2006.