

# ***Macovie v British Columbia (Workers' Compensation Appeal Tribunal)***

## Decision Summary

Court	BC Supreme Court
Citation	2025 BCSC 2365
Result	Referred back for redetermination
Judge	Elwood
Date of Judgment	December 2, 2025
WCAT Decision(s) Reviewed	A2201603

### **Keywords:**

*Judicial review – Survivor benefits – Issue estoppel – Compensable consequences – Standard of causation – Standard of proof*

### **Summary:**

The petitioner's husband had compensable injuries to both knees that were accepted on separate claims originating in 1989 and 1998. These injuries resulted in permanent physical impairment and depression, which was accepted as a compensable consequence of his physical conditions. In 2019, he died of cardiopulmonary arrest, and the petitioner applied for survivor benefits. She asserted that his physical and psychological conditions led to the development of medical complications, including obesity and diabetes that ultimately led to his death at the age of 62.

The Board denied the petitioner's claim, and on appeal, WCAT's analysis of the factors leading to the worker's death held that his accepted conditions were not of causative significance. However, the petitioner filed for judicial review, and on further reflection, WCAT agreed to a consent order to set its decision aside on the grounds that the petitioner had received disclosure of only the second of the worker's claim files, and that the decision relied on the medical opinion of a Review Division medical adviser ("RDMA") who may not have been aware of the worker's earlier claim.

On rehearing, WCAT again denied the petitioner's claim. The reasons section of the panel's decision begins with discussions of the standard of causation and the standard of proof. *Vol I* and *II* of the *RSCM* have different wording regarding causation of secondary conditions: *Vol I* uses the phrase "significant cause" whereas *Vol II* uses "of causative significance". As for standard of proof, section 303(5) of the *WCA* sets this at a balance of probabilities in "an appeal respecting the compensation of a worker". Prior nonbinding decisions of WCAT have held that this does not cover appeals respecting the compensation of workers' families, and that the ordinary civil standard applies. However, the panel holds that both questions are moot in the present case because she holds that the appeal fails to meet even the lower standards.

The panel continues her analysis by noting that the Board had rendered a decision letter in February 2010 denying the worker's obesity and diabetes as compensable conditions. Therefore, any contribution these conditions may have had towards the worker's death as of that date was not compensable, and the worker's weight did not follow any clear worsening trend after that date. Accordingly, the panel held that the worker's death was not compensable.

On the second judicial review, the court held that the 2010 decision, while binding for the purposes of the worker's claim, was not binding on the panel for the purposes of the petitioner's survivor benefits claim because the panel was called upon to decide a different issue based on a different evidentiary record. Treating the 2010 decision as a break in the chain of causation, undermined a fair assessment of the medical evidence. Accordingly, the question of whether the RDMA was aware of the first claim remained relevant, and reliance upon the RDMA's opinion undermined the panel's analysis of causation.

Also, the court noted the uncertainty about the standard of causation, and commented that WCAT should determine this on the referral back. However, this comment may amount to *obiter dicta* since the court acknowledges that the panel found that the case met neither standard.