

**IN THE DISTRICT COURT  
AT WELLINGTON**

**I TE KŌTI-Ā-ROHE  
KI TE WHANGANUI-A-TARA**

**[2023] NZACC 141**

**ACR 18/22**

UNDER THE ACCIDENT COMPENSATION ACT 2001  
IN THE MATTER OF AN APPEAL UNDER SECTION 149 OF THE ACT  
BETWEEN ALISTER FRASER  
Appellant  
AND ACCIDENT COMPENSATION CORPORATION  
Respondent

Hearing: 15 March 2023

Heard at: Wellington

Appearances: M Williams for appellant (by AVL)  
B Marten and T Lynskey for respondent (in person)

Judgment: 30 August 2023

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**JUDGMENT OF JUDGE I C CARTER**  
**[Personal injury/physical injury / s 26 Accident Compensation Act 2001]**

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### **Introduction**

[1] Mr Fraser had two accidents while at work. The first involved lifting heavy weight on 26 August 2019. The second involved tripping and falling on 26 February 2020. He suffered lower back pain after both accidents and the initial diagnosis was for lumbar sprains. Accident Compensation cover was accepted for various investigations and treatments. Mr Fraser saw an orthopaedic specialist, Mr Enright, whose ultimate diagnosis was for left sacroiliac joint (SI) dysfunction. Surgery was recommended and funding for the surgery was sought from the Corporation.

[2] In a decision dated 26 July 2021, the Corporation declined cover and entitlement to surgery funding for left SI joint dysfunction (“the Decision”).

[3] Mr Fraser applied for review of that declined decision and in a Review Decision dated 6 December 2021 (“the Review Decision”) the Reviewer upheld the Corporation’s decision to decline cover and surgery funding. The Reviewer concluded that the medical evidence did not establish that Mr Fraser suffered a physical injury, requiring surgery, caused by the two accidents. The application for review was dismissed.

[4] This is an appeal from the Review Decision.

[5] The appeal is by way of re-hearing, which means that the District Court is required to undertake its own evaluation of the evidence and merits generally.<sup>1</sup> The Review Decision is considered, but the Court may come to a different conclusion.<sup>2</sup>

### **Agreed facts**

[6] The relevant facts were agreed by the parties.

[7] Mr Fraser is a 64-year-old sheet metal worker from Napier.

[8] Throughout 2018 and 2019 he consulted his chiropractor for back pain and symptoms going into his legs and pelvis arising from covered lumbar sprains.

[9] He has also suffered two relevant accidents:

- (a) On 26 August 2019 he suffered back pain lifting UB sections (heavy beams) in a workshop. The accident description stated:

Lifting UB sections in workshop for welding, sudden onset lower back pain, now worse at night and shooting down L leg.

- (b) On 26 February 2020 he tripped on a cord and fell onto his hands and buttocks. The most immediate General Practitioner consult notes (from 6 March 2020) recorded (in part):

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<sup>1</sup> *Accident Compensation Corporation v Bartels* [2006] NZAR 680 at [65]; *Atapattu-Weerasinghe v Accident Compensation Corporation* [2017] NZHC 142 at [23]; *BL v Accident Compensation Corporation* [2023] NZACC 106.

<sup>2</sup> *Wildbore v Accident Compensation Corporation* [2009] NZCA 34, [2009] 3 NZLR 21 at [29].

Tripped on a cord, landed on buttocks and both hands. Stood up, back not painful. Woke up on Monday morning – L leg was sore – pain in centre of L buttock, back of the thigh, lateral side of lower leg. Pain like “something kicked him”.

[10] Mr Fraser regularly presented to his General Practitioner following his accidents. On 30 April 2020, the notes recorded that Mr Fraser had bought a bike and ridden it home, following which he could not move much for the next few days. He wanted to see a specialist.

[11] Mr Fraser was referred to Mr Austin Enright, orthopaedic surgeon, who ordered MRI investigations. On 12 August 2020, Mr Enright noted small disc herniations at both L4/5 and L5/S1. He said that neither was contacting the nerve roots, but “certainly chemical irritation is possible”. He also noted the presence of facet arthropathy at L4/5 and to a lesser extent L5/S1, which he described as “long standing” and probably responsible for Mr Fraser’s lower back pain.

[12] However, a steroid injection into the L4/5 exit foramen yielded very little relief. As a result, Mr Enright suspected a sacroiliac joint (SIJ) issue and suggested a left SI joint injection.<sup>3</sup> This was performed on 10 December 2020 and produced an 80% pain relief. As a result, Mr Enright diagnosed “SI joint dysfunction”.<sup>4</sup>

[13] On 9 March 2021, Jasmine Rainford (ACC Clinical Advisor) prepared written guidance on the claim file. She noted (in part):

Orthopaedic opinion has resulted in a diagnosis of sacroiliac joint dysfunction, following a positive response to CT guided injection. Sacroiliac joint dysfunction has a great many causes, both traumatic and non-traumatic. In this case I was unable to find clear evidence of a sacroiliac joint region injury within the lodging General Practitioner’s clinical records: tenderness was located in the region of the lower thoracic/lumbar spine, with no pain in the buttocks.

SIJ testing was not undertaken, nor was an SIJ region condition included in the impression ...

As outlined above, both the orthopaedic and MCR providers have outlined clinical diagnoses (sacroiliac joint dysfunction, mechanical back pain with somatic referral). These would be considered terms that describe a pattern of symptoms, rather than definitive diagnoses in themselves.

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<sup>3</sup> Clinic letter dated 11 November 2020.

<sup>4</sup> Clinic letter dated 24 February 2021.

[14] On 9 June 2021, Mr Enright applied to the Corporation for surgical funding. The specific diagnosis he gave was “Left SI joint dysfunction that has now failed conservative measures”. In respect of the causal medical link between the proposed treatment and covered injury he stated:

Based on the work of Kurosawa and Murakami, risk factors for inducing SI pain include traffic accidents, twisting, lifting heavy objects, or falling onto the buttocks. Clearly Mr Fraser has suffered 2 of these provocative factors, heavy lifting in 2019, and of Dengler et al (2017), there was only a 18% chance that someone like Mr Fraser was going to improve with conservative management. Unfortunately Mr Fraser is in the 82% that fail conservative management and should now progress to surgical management.

[15] On 23 July 2021, this was reviewed by Mr Peter Hunter (orthopaedic surgeon) for the Corporation’s Clinical Advisory Panel. Mr Hunter noted that the General Practitioner notes from the 2020 accident described a fall resulting in a **right** lumbar sprain, although **left** sciatic symptoms recurred later. He said, “this does not seem consistent with the current diagnosis of left sacroiliac joint dysfunction”. He further noted that there was no clinical evidence that the left sacroiliac joint was injured on 26 August 2019 or 26 February 2020, and that the mechanism of injury involved in the former was unlikely to damage the sacroiliac joint.

[16] On 26 July 2021, the Corporation declined to cover Left SI joint dysfunction and fund Mr Fraser’s surgery.

[17] On 4 August 2021, Mr Fraser’s advocate filed a review application against ACC’s 26 July 2021 decision.

[18] On 9 August 2021, Jono Henry (Corporation clinical advisor) reviewed the file. He noted that the covered sprain injuries had (by that point) likely resolved, and that the “current diagnosis provided by the specialists involved in this claim regarding the client’s ongoing symptoms are either not a physical injury diagnosis or non-accident-related pathologies.”

[19] On 31 August 2021, Mr Enright provided a report at the request of Mr Fraser’s advocate. In that report, he noted that the established degenerative changes at L4/5 and L5/S1 were anatomically distinct from the SI joint and added little to the discussion of causation. Furthermore, he noted Mr Fraser met the diagnostic criteria for surgical fixation of the SI joint. In respect of the mechanisms of injury, Mr Enright noted that:

[According to the relevant literature] the stated risk factor for inducing SIJ pain include: traffic accidents, twisting, lifting of heavy objects, or falling on the buttocks. Both of Mr Fraser's accidents are included in the statement above, refuting [Mr Hunter's] comments. Kapour et al (2020) echo this stating "SIJ pain may also be due to injuries sustained from falling directly on the buttocks".

[20] The matter proceeded to a review hearing on 9 November 2021. Mr Fraser gave evidence about his 2019 accident as follows:

The first accident, I was welding plates on the end of these I-beams and I had to keep turning them over, which I was doing by myself, and those beams weigh 200 kilos, so as I lifted, because I used a big crescent to get purchase on it and I lifted like that, and a wrench with my left-hand side, and it, that's when it sort of started, and a lot of the time when I do injuries to my back and things like that, I don't – don't notice it until the next day... when I get up in the morning, and that's where it hurts, so, yeah.

[21] In respect of the second (fall onto buttocks) injury, he gave evidence as follows:

February, I was welding and I was moving backwards and I had my welding helmet on, and I got a lead caught round my boot which I didn't know about, and then eventually the lead ran out. Next thing, my left leg's up in the air and I go flying backwards and sort of landed, and I could hardly protect myself from the fall because I had my hands full of stuff, and, yeah. And yet again, I was fine, got up, bit sore, and then the next day it was, bang, like I'd been hit by a bus.

[22] He also explained that since the accident the pain had not gone away. He tried to do things and it just got worse. He stated that some days it might feel good and he will mow the lawns, and then he would need three days to recover from that.

[23] In a decision dated 6 December 2021, the Reviewer upheld the Corporation's decision. She found that Mr Enright had provided inadequate reasoning as to how the accidents caused Mr Fraser's SI joint dysfunction. She noted the caution issued by the Court in *Lucas* against "rubber-stamping" the treating surgeon's opinion, and concluded that on the evidence before her, there was insufficient evidence to show that Mr Fraser's condition had a traumatic cause.

[24] On 24 January 2022, Mr Fraser lodged a notice of appeal against the Reviewer's decision. The appeal was out of time, but by way of a ruling dated 7 April 2022 his Honour Judge McGuire accepted the appeal for filing.

## Issues on appeal

[25] The parties agree that the issues to be determined on appeal are:

- (a) Is the condition for which Mr Fraser requires surgical treatment a personal injury within the meaning of the Act? (s 26)
- (b) If so, was that personal injury caused by either of his accidents on 26 August 2019 or 26 February 2020?
- (c) Is he entitled to surgical funding for the treatment of that condition? (Both sides are agreed that cover determines this question).

## Law

[26] The starting point is s 67(a) of the Accident Compensation Act 2001 (“the Act”) which requires cover for a personal injury before there is any accident compensation entitlement.

[27] So far as relevant to this appeal, for there to be cover, there must be a personal injury by physical injury, including a strain or a sprain, that is caused by an accident to the person.<sup>5</sup>

[28] That is to say, personal injury generally requires that an identifiable physical injury must be present.

[29] Physical injuries are:<sup>6</sup>

As the illustration provided by s 26(1)(b) [including a sprain or strain] indicates, ... those suffered by the claimant which have some appreciable and not wholly transitory impact on the person, but which are not necessarily long-lasting or ones that cause serious bodily harm.

[30] A claimant must identify a specific physical injury in order to qualify for cover. Several decisions have explained what this means in practice. In *Phillips v Accident Compensation Corporation*<sup>7</sup>, the Court said:

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<sup>5</sup> Accident Compensation Act 2001, s 20(1)(a), (b), (c), (2), s 26(1)(b). All section references are to sections in the Accident Compensation Act 2001 unless otherwise stated.

<sup>6</sup> *Allenby v H* [2012] NZSC 33, [2012] 3 NZLR 425 at [56].

<sup>7</sup> *Phillips v Accident Compensation Corporation* [2007] NZACC 190 at [8].

... This Court has noted on a number of occasions that [the definition of personal injury] requires evidence or identification of a discrete physical injury, that is, physical harm caused to the body. It requires more than the mere experiencing of pain, which of itself is not injury, but may be a symptom of injury. The physical injury itself needs to be identified.

[31] In *Posa v Accident Compensation Corporation*<sup>8</sup> the Court held:

... the requirement of a physical injury provides a filter to liability, a significant external signpost and an objective reference so that the injury may readily be audited or monitored.

[32] The legal burden is on the claimant to demonstrate that the requirements of the Act are satisfied, including to prove causation on the balance of probabilities.<sup>9</sup> That means showing that the probability of causation is more probable than not and higher than 50 per cent. However the courts do not engage in mathematical calculations, but rather form a general impression of the sufficiency of the law and scientific evidence and the presumptive inference which a sequence of events inspires in a person with common sense.<sup>10</sup>

[33] A proximate temporal connection between an event and a subsequent medical condition may be relevant, but its significance in any particular case will depend on the circumstances.<sup>11</sup>

[34] The claimant must establish on the balance of probabilities, based on all the evidence, that there is a causal nexus between the medical condition and a personal injury by accident.<sup>12</sup> The Court should not place too much emphasis on the onus as the question is whether the evidence as a whole justifies a conclusion that the necessary causal nexus between injury and medical condition exists.<sup>13</sup> At the end of the day, causation is a question for the Court that cannot be delegated to the experts.<sup>14</sup>

[35] The claimant must show that his or her medical condition was caused in some degree by the covered injury.<sup>15</sup> If that is established, cover is not necessarily displaced on the basis

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<sup>8</sup> *Posa v Accident Compensation Corporation* [2013] NZACC 186 at [58].

<sup>9</sup> *Accident Compensation Corporation v Ambros* [2007] NZCA 304, [2008] 1 NZLR3 40 at [63].

<sup>10</sup> *Accident Compensation Corporation v Ambros* [2007] NZCA 304, [2008] 1 NZLR3 40 at [65].

<sup>11</sup> *Accident Compensation Corporation v Ambros* [2007] NZCA 304, [2008] 1 NZLR3 40 at [77], [78].

<sup>12</sup> *Wakenshaw v Accident Compensation Corporation* [2003] NZAR 590 at [24].

<sup>13</sup> *Wakenshaw v Accident Compensation Corporation* [2003] NZAR 590.

<sup>14</sup> *Cochrane v Accident Compensation Corporation* [2005] NZAR 193 at [26].

<sup>15</sup> *Cochrane v Accident Compensation Corporation* [2005] NZAR 193 at [24].



that the condition was caused wholly or substantially by factors such as age or uncovered degenerative condition.<sup>16</sup>

[36] A treating medical specialist's opinion is often preferred, but the Court does not simply rubberstamp it. The specialist must provide proper reasoning for their opinion and the Court will be influenced by the extent to which the medical opinion proceeds logically from as clear and settled a basis of fact as is possible.<sup>17</sup>

[37] The nature and extent of entitlements are determined under Schedule 1, clause 32, of the Act. It is unnecessary in this appeal to determine the specific entitlements, because the parties agree that if there is cover, entitlement to funding for surgery would follow.

### **Appellant's Submissions**

[38] For Mr Fraser, it is submitted that the evidence establishes, on the balance of probabilities, that his left sacroiliac joint dysfunction diagnosed by his orthopaedic specialist, Mr Enright, was caused by the two accidents. Further, Mr Enright's opinion should be preferred to that of a General Practitioner or other health professional.

[39] Mr Fraser acknowledges several back injuries over the years which have been covered by accident compensation and that there is a mild amount of degenerative change in his back. Due to those previous injuries, Mr Fraser's back has become susceptible to injury and any trauma may aggravate the pre-existing degenerative changes.

### **Respondent's Submissions**

[40] For the Corporation, it is submitted that the evidence does not establish an identified physical injury and does not establish a causal nexus between either of the two accidents and the medical condition for which surgical funding is sought. There is therefore no cover and no entitlement to surgical funding.

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<sup>16</sup> *Cochrane v Accident Compensation Corporation* [2005] NZAR 193 at [24] and exclusions from the definition of "personal injury in s 26 (2), (4)(a) and s 20(2)(e) to (h).

<sup>17</sup> *Lucas v Accident Compensation Corporation* [2015] NZACC 216.

## **Analysis**

### *Evidence*

[41] The accident description of 26 August 2019 describes lower back and left leg pain after lifting a weight and noted a diagnosis of left lumbar sprain. The 26 February 2020 General Practitioner notes describe pain in the left leg, centre of the left buttock, back of the thigh and lateral side of the lower leg after tripping on a cord and landing on the buttocks and both hands.

[42] The diagnosis given by the treating orthopaedic specialist, Mr Enright, was left sacroiliac joint dysfunction. He noted that the causes of sacroiliac joint dysfunction identified in the medical literature included traffic accidents, twisting, lifting heavy objects or falling onto the buttocks. The inclusive language confirms that there are other potential causes. Mr Enright observed that two potential causes - lifting heavy objects and a fall onto the buttocks - featured in Mr Fraser's two accidents.

[43] In addition to the agreed facts described above, there was also undisputed evidence in the form of Mr Fraser's chiropractor's notes. These detailed several lower back issues predating the August 2019 and February 2020 accidents. There was one consultation in 2006, nine in 2018 and one in January 2019. All involved lower back pain with most attributed to lifting items when at work and one other instance attributed to bending over to pat a cat. Three of the 2018 notes refer to pain in the left sacroiliac joint.<sup>18</sup>

*Is the condition for which Mr Fraser requires surgical treatment a personal injury within the meaning of the Act? (s 26)*

[44] In the context of this appeal, for there to be cover there must be a physical injury caused by an accident. So the issue is really whether or not Mr Fraser's left sacroiliac joint dysfunction is *a physical injury*.

[45] Mr Enright's diagnosis is that Mr Fraser has a left sacroiliac joint dysfunction. There are also references in his 31 August 2021 report to "SIJ pain". The diagnosis was made (sometime after the accidents) for clinical reasons in response to a cortisone injection and failure of conservative treatment.

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<sup>18</sup> 17 April, 31 May, 17 October 2018.

[46] Sacroiliac joint dysfunction or pain is not a physical injury. It is rather a phrase that describes a pattern of symptoms.

[47] Mr Enright refers to pain and dysfunction but there is no description of a specific physical injury that has been caused by either of the two accidents, which would give cover under s 20 of the Act. For example, there is no reference in MRI imaging of Mr Fraser's sacroiliac joint to a tear or fracture.

[48] No specific, discrete, physical injury is identified. The clinical diagnosis, of a left sacroiliac joint dysfunction or pain, does not identify a physical injury.

[49] General Practitioner and other Health Professional notes do not otherwise identify a physical injury arising from either of the two accidents. Previous episodes of back pain in Mr Fraser's history generally described lumbar sprain for which cover was provided at different times and the injuries have since resolved.

[50] No physical injury having been identified in the diagnosis of left sacroiliac joint dysfunction or pain, my conclusion on the first issue is: No, the condition for which Mr Fraser requires surgical treatment is not a physical injury and is not a personal injury within the meaning of the Act.

*If so, was that personal injury caused by either of his accidents on 26 August 2019 or 26 February 2020?*

[51] This issue is concerned with whether the left sacroiliac joint dysfunction or pain was caused to some degree by either of the two accidents.

[52] Mr Enright, the treating orthopaedic specialist, does not actually give an opinion that the two accidents relied on specifically caused the sacroiliac joint dysfunction. He describes, based on medical literature, the things which may provoke symptoms or pain, including lifting heavy objects and falling on the buttocks.

[53] Consistently with the medical literature referred to by Mr Enright, sacroiliac joint dysfunction can have a range of traumatic or non-traumatic causes. As noted by the Corporation's clinical adviser, Ms Rainford, Physiotherapist:

Examples of factors that can cause and maintain sacroiliac joint dysfunction and mechanical back pain include demographic (e.g. age, gender), occupational (e.g. job that involves heavy repetitive lifting), structural (e.g. bony changes), biomechanical (e.g. muscle strength and length) and others. Biomechanical factors can arise secondary to trauma in some cases.

[54] For Accident Compensation purposes, there must be a physical injury caused by an accident that has given rise to the left sacroiliac joint dysfunction, but the evidence does not clearly identify a physical injury. In the context of this appeal, identification of a physical injury is a fundamental requirement of the Accident Compensation scheme. Mr Enright's analysis does not say whether either of the two accidents actually caused a physical injury or identify what the physical injury was and does not explain how the accidents caused an identifiable physical injury that is now causing the symptoms that require surgery.

[55] Two accident events are said by Mr Enright to have caused Mr Fraser's left sacroiliac joint dysfunction. This is really a temporal link argument – that Mr Fraser's left sacroiliac joint dysfunction or pain followed his accidents and was therefore caused by it. There is no dispute that Mr Fraser had the two accidents that he described. However, the fact that somebody has had an accident does not necessarily mean that the accident actually caused the condition for which surgery is recommended and funding is sought.

[56] The significance of a proximate temporal link between an injury and a subsequent medical condition depends on the circumstances and is generally not enough in itself to establish causation.<sup>19</sup> There is a temporal link in this case in that there is some proximity between the two accidents and the left sacroiliac joint dysfunction or pain. But this does not of itself point to causation given the wide range of possible causes of sacroiliac joint dysfunction and Mr Fraser's medical history pre-dating the 2019 and 2020 accidents.

[57] The non-specific nature of Mr Enright's analysis presents difficulties when assessing whether either of the accidents caused the incapacitating condition on the available evidence:

- (a) The Corporation's clinical advisor, Mr Hunter, Orthopaedic Surgeon, essentially concludes, based on the clinical notes and contemporaneous medical records, that Mr Fraser's medical history is not consistent with his sacroiliac joint dysfunction having been caused by either of the two accidents

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<sup>19</sup> *Accident Compensation Corporation v Ambros* [2007] NZCA 304, [2008] 1 NZLR3 40 at [77], [78].

relied on. Mr Hunter noted that the General Practitioner notes from the 2020 accident described a fall resulting in a *right* lumbar sprain, although *left* sciatic symptoms manifested later. He said, “this does not seem consistent with the current diagnosis of left sacroiliac joint dysfunction”. He further noted that there was no clinical evidence that the left sacroiliac joint was injured on 26 August 2019 or 26 February 2020, and that the mechanism of injury involved in the former (lifting weight) was unlikely to damage the sacroiliac joint

- (b) No discrete physical injury had otherwise been identified during the course of the clinical investigations.
- (c) Mr Fraser experienced longstanding lumbar pain, as well as sacroiliac joint issues (particularly on the left side) prior to both accidents.
- (d) Mr Enright’s view that surgical intervention was required after conservative management of Mr Fraser’s pain had failed, is consistent with one or both the accidents triggering or accelerating a condition to which Mr Fraser was already vulnerable, which would not qualify for cover.<sup>20</sup>

[58] Mr Fraser has a reasonably long history of back pain and related symptoms and has established accident compensation cover on several occasions. That is unsurprising, as he works in a very physical job. What is known from the chiropractor notes is that the sacroiliac joint pain was present on at least three occasions prior to both of the two accidents,<sup>21</sup> together with lumbar pain. The clinical history shows that the sacroiliac joint symptoms pre-dated the two accident events relied on.

[59] There can be a new physical injury independent of pre-existing pain or degeneration. However the fact that sacroiliac pain was identified and treated prior to both of the two accidents, suggests that it was an ongoing issue that was being dealt with, rather than a new injury caused specifically by either of the two accident events that are relied on. It is only the two specific accidents that are advanced as causes of the sacroiliac joint dysfunction and not any of the earlier accidents.

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<sup>20</sup> *Cochrane v Accident Compensation Corporation* [2005] NZAR 193 at [25].

<sup>21</sup> 17 April, 31 May, 17 October 2018.

[60] It was submitted for Mr Fraser that “the sacroiliac joint dysfunction is when there is movement in the sacroiliac joint caused by a fall and twisting. This is what has occurred in Mr Fraser’s case.” However this was not the basis on which Mr Enright expressed his opinion, was not the accident description given in evidence by Mr Fraser at the Review hearing, and was not recorded in the contemporaneous medical notes.

[61] It was also submitted for Mr Fraser that the two accidents aggravated his pre-existing degenerative changes caused by previous back strains or sprains. However the contemporaneous medical notes and Mr Enright’s reports do not support this either. There is insufficient evidence to apply any exception<sup>22</sup> to the general exclusion<sup>23</sup> of degenerative conditions.

[62] Overall, the evidence as a whole does not justify a conclusion that the necessary causal nexus exists between the two accidents and the left sacroiliac joint dysfunction or pain.

[63] I conclude on the second issue: No, personal injury was not caused by either of Mr Fraser’s accidents on 26 August 2019 or 26 February 2020.

*Is he entitled to surgical funding for the treatment of that condition? (Both sides are agreed that cover determines this question).*

[64] The end result is that there is insufficient evidence, considered as a whole, to establish cover for a physical injury caused by the two accidents. I conclude on the third issue: No, Mr Fraser is not entitled to surgical funding for the treatment of left sacroiliac joint dysfunction.

## **Conclusion**

[65] On the totality of the evidence, there is insufficient evidence on which the court can be satisfied that Mr Fraser has cover for a personal injury within the meaning of the Act and is not entitled to Accident Compensation funding for surgery to address sacroiliac joint dysfunction.

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<sup>22</sup> Section 20(2)(e) to (h).

<sup>23</sup> Section 26(2).

## **Result**

[66] The Decision and the Review Decision are correct in concluding that Mr Fraser has no cover for and entitlement to surgery funding for left sacroiliac joint dysfunction.

[67] The appeal is dismissed.

## **Costs**

[68] Although Mr Fraser is unsuccessful on appeal, the Corporation does not seek costs and I make no order for costs.



I C Carter  
District Court Judge

Solicitors/Representatives: Dispute Solutions, Hastings, for appellant  
Izard Weston, Lawyers, Wellington, for respondent