

**PURSUANT TO S 160(1)(b) ACCIDENT COMPENSATION ACT 2001
THERE IS A SUPPRESSION ORDER FORBIDDING PUBLICATION OF
THE APPELLANT'S NAME AND ANY DETAILS THAT MIGHT IDENTIFY
THE APPELLANT**

**IN THE DISTRICT COURT
AT WELLINGTON**

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

[2023] NZACC 220 ACR 62/23

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

Hearing: 14 December 2023

Held at: Wellington by AVL

Appearances: The Appellant is self-represented
R Roff for the Accident Compensation Corporation (“the
Corporation”)

Judgment: 21 December 2023

**RESERVED JUDGMENT OF JUDGE P R SPILLER
[Claim for weekly compensation – clause 52, Schedule 1,
Accident Compensation Act 2001 (“the Act”)]**

Introduction

[1] This is an appeal from the decision of a Reviewer dated 3 March 2023. The Reviewer dismissed an application for review of:

- (a) the Corporation’s decision dated 7 December 2021, determining that the appellant was no longer entitled to weekly compensation as she was over

65 and had received weekly compensation for two years or more before turning 65; and

- (b) the Corporation's decisions dated 15 August 2022, declining cover for any further mental injuries.

Background

[2] On 21 July 2005, a claim for cover was lodged on behalf of the appellant by her counsellor, Ms Denise McEnteer, for "mental injury as a result of crimes under the Crimes Act, 1961 section 128". The injury diagnosis is noted as "SN571", which is the ACC read code used by medical practitioners to describe sexual abuse.

[3] On 5 August 2005, a Sensitive Claims Cover Determination report (ACC290) was completed by Ms McEnteer. The report noted a diagnosis and symptoms as "SN571= sexual abuse", "E28 = depression", "Agoraphobia = E2000 = Anxiety", and "symptoms include panic attacks, emotional liability, mood swings, inability to form trusting relationships".

[4] On 8 September 2005, the Corporation accepted the appellant's sensitive claim for cover. The deemed date of injury was 21 July 2005, being the date when the claim was signed and taken to be the date the appellant first received treatment for her injury. The appellant was able to continue working until late 2008.

[5] On 1 October 2008, medical notes at the appellant's GP clinic recorded that she was/had "depressed, no energy, not sleeping well, crying easily, suicidal thought but not actions or seriously contemplating".

[6] On 10 December 2008, an ACC554 medical certificate was lodged by the appellant's GP, Dr Peter Conolly. The diagnosis is stated as "sensitive claim" with "continued symptoms" noted as "depression/anxiety/panic attacks and flash backs". The medical reason stated for why the appellant's level of impairment had changed since her previous assessment was noted as being "Now unable to work/loss of confidence. Situation has deteriorated". Medical consultation notes by Dr Conolly dated 10 December 2008 record "forms filled in for reassessment of sensitive claim",

with symptoms noted as “depression, loss of confidence, panic attacks and flash backs”. Dr Conolly also lodged an ACC54 form for the purpose of applying for the reassessment of an existing independence allowance as well as applying for weekly compensation. The relevant injury is noted as “sensitive claim”.

[7] On 16 December 2008, Dr Conolly lodged an ARC18 Medical Certificate certifying the appellant’s unfitness to work from 1 October 2008 for 90 days. The diagnosis was stated as “sensitive claim” with “continued symptoms” noted as being ‘depression, panic attacks, loss of confidence - now unable to work’. Subsequent ACC554 medical certificates for the first period of entitlement to weekly compensation duplicated the diagnosis/symptoms noted in the first ACC554. She was granted weekly compensation payments for incapacity between 9 October 2008 and 19 December 2010.

[8] On 25 March 2009, Dr Conolly replied to a request for information from the Corporation about the appellant’s current diagnosis and cause of diagnosis in order to determine whether she was eligible for weekly compensation. Dr Conolly’s handwritten response on the letter notes the current diagnosis and cause as “stress/depression/flashbacks” and “stress/depression/post-traumatic disorder”. Factors contributing to the appellant’s inability are noted as “lack of confidence, lack of maturation, lethargy, flashbacks, depressed, unable to sleep” and “having counselling at present and this is making her symptoms worse, lack of confidence and maturation, depression, lethargy, unable to sleep, flash backs”. Dr Conolly confirmed that the appellant was incapacitated to work due to lack of confidence, lack of motivation, lethargy, flashbacks, depressed and unable to sleep.

[9] From 2009, the appellant underwent further counselling. On 24 June 2009, she was referred by the Corporation for a psychiatric assessment report and preparation of a treatment plan.

[10] On 9 July 2009, Dr John Vickers, Psychiatrist, noted that the purpose of his report was to “assist ACC in determining whether to accept [the appellant’s] claim for mental injury arising from sexual abuse and review her capacity to work”. Dr Vickers diagnosed the appellant with major depressive disorder and generalised

anxiety disorder. Dr Vickers noted that the appellant's main problems at that time were "nervousness, anxiety, panic attacks, low mood with insomnia and early wakening, and the feeling of not being able to get out of bed in the morning. These symptoms have been present since late 2008 and vary in intensity". Dr Vickers' advice was that the appellant was incapacitated due to depression and anxiety from October 2008 (when she stopped working).

[11] On 23 July 2009, medical notes at the appellant's GP clinic recorded that she was "feeling anxious and feeling stressed".

[12] On 5 August 2009, medical notes at the appellant's GP clinic recorded that she was "wanting tranquilizers", and on 6 August 2009 that she was "very anxious".

[13] On 10 November 2009, the appellant was assessed by Dr Iona Bailey, Impairment Assessor, as to her level of impairment. On 17 November 2009, Dr Bailey reported that the appellant "continues to suffer from flashbacks" and finds "sex does cause flashbacks to her childhood sexual abuse". On 29 January 2010, Dr Bailey made some minor amendments to her report in response to a complaint made by the appellant.

[14] On 2 March 2010, the appellant was assessed by Dr Rosy Fenwicke, for an initial medical assessment (IMA). The purpose of the assessment was to verify from a medical point of view that the types of work identified during the appellant's initial occupational assessment (IOA) were suitable (considering the effects of her injury and any other conditions) and, if appropriate, indicate what other assessments or treatment might assist with her rehabilitation. Dr Fenwicke's IMA Report referred to the diagnosis of generalised anxiety disorder and major depressive disorder. Dr Fenwicke noted that the appellant became depressed and "memories of childhood sexual abuse were reactivated in 2007 and 2008 when she was working as a caregiver and the demands of some of her patients became too much for her". Dr Fenwicke noted that the appellant reported six panic attacks a week, erratic sleep and nightmares. Dr Fenwicke also noted that "symptoms of depression and post-traumatic stress disorder [PTSD] appear to have gone into remission with the help of counselling and the passage of time and time away from work".

[15] On 15 March 2010, medical notes at the appellant's GP clinic recorded that her moods were much better and she was not depressed at present, but that "anxiety does seem to be worse" and "takes lorazepam when gets panicky".

[16] On 1 December 2010, her clinic's GP medical notes recorded that the appellant had no change to anxiety, and was still struggling to manage confrontational and stressful situations at work.

[17] On 6 September 2011, Ms Nicole Calder, Clinical Psychologist, sought funding from the Corporation for further support for the appellant, and completed an ACC266 form: Psychological Services Action Plan. It was noted that the appellant "continues to experience flashbacks and nightmares related to her past abuse which she attempts to block out"; "she feels as though she will never get over it and feels that one way she can move on is to get retribution by telling the media her story"; and "she believes this may help other people who have suffered abuse from this GP". The report refers to symptoms typically associated with PTSD or acute stress disorder (ASD). In terms of objectives to achieve, the report notes "management of symptoms associated with past abuse, including managing flashbacks and nightmares".

[18] On 20 March 2015, the appellant turned 65.

[19] On 16 February 2016, Ms Denise McEnteer, Counsellor at BOP Sexual Assault Services, asked for a support assessment as the appellant was having difficulties with her daily living activities, and this was considered to be due to the effects of the pervasive sexual abuse and assaults that she had suffered.

[20] On 1 July 2016, Dr Lynn Dara, Registered Psychologist, diagnosed the appellant as having PTSD and also major depressive disorder and generalised anxiety disorder. In her report, Dr Dara noted that:

[The appellant] has experienced three years of events which involved serious psychological and physical injury to herself. Her response to this was intense fear, helplessness, and horror. She remembers feeling different after these assaults began and she described being still bothered by the sexual assault from the doctor throughout the sexual relationships she subsequently had with her husbands (criteria A).

These events which involved repeated acts of sexual assault, both by the Doctor and in turn, her husband, have left her re-experiencing these events. The results of her PTSD measures (PCL-C IES-R) reveal that she has recurrent and intrusive distress recollections of events. She reported having dreams of the events and claims to sometimes feel as if the sexual events were recurring and she was reliving them. These memories of events also include the teenage rape and her more recent memories of ... violence and frequent events when he forced rough and unwanted sex onto her (criteria B).

Although [the appellant] has not been diagnosed with PTSD in previous assessments, I believe that she does suffer from this condition as well as anxiety and depression. In my opinion, these three conditions are directly linked and in most part, caused by the sexual assaults she experienced as a child and reinforced by the ongoing sexual assaults she endured as an adult.”

[21] On 6 September 2016, the Corporation issued a decision updating cover on the appellant’s sensitive claim with specific diagnoses being:

- (a) PTSD;
- (b) Major depressive disorder; and
- (c) Generalised anxiety disorder.

[22] Over five years later, on 26 October 2021, the appellant applied for weekly compensation for her injury on 21 July 2005. On 16 November 2021, Dr Ashley Insley lodged an ACC18 certifying the appellant as fully unfit to work from 16 November 2021 to 7 December 2021, on the basis that “sensitive claim has just started counselling”.

[23] On 7 December 2021, the Corporation issued a decision declining to pay weekly compensation to the appellant, on the basis that (in terms of clause 52, Schedule 1 of the Act), she was no longer entitled to weekly compensation as she was over 65 and had been entitled to weekly compensation 24 months or more before turning 65. The Corporation further advised that, although it was unable to provide weekly compensation, it might be able to offer other assistance towards the appellant’s recovery and treatment costs. The appellant applied to review this decision.

[24] On 1 March 2022, Ms Eileen Swan, Psychology Advisor, following a review of the available records, considered that all three diagnosed mental injuries (including PTSD) were clearly manifest in 2008/2009. She noted that, although the

PTSD was not specifically diagnosed at that time (2008/2009), elements were present (such as flashbacks). Ms Swann noted that, although an additional event was recorded in 2016, she did not consider that new symptoms appeared, but that they were apparent from the earlier time period for all three diagnoses:

There is clear evidence of PTSD on 10/12/2008 when the client presented to the GP for help, noting that she was having flashbacks and panic attacks. These are most likely symptoms of the mental injury caused by sexual abuse.

[25] On 11 May 2022, a case management conference was held. The parties advised that there were further issues relating to diagnosis and cover and treatment that were being considered by the Corporation and that those issues had been considered and discussed at a conciliation meeting in March 2022. The Corporation explained that the relevance of considering whether there were further diagnoses (that had not previously been covered) was that the Corporation's approach to interpreting clause 52 of Schedule 1 was to allow for weekly compensation to be paid (after the age of 65) if the covered injury was not an injury that had been covered, and for which weekly compensation had been paid, prior to the age of 65. The conciliation agreement provided that, among other steps, the Corporation would seek a diagnosis of the appellant's current mental injury from Ms Nemsha Naidu, Clinical Psychologist, the appellant's lead provider.

[26] On 10 May 2022, Ms Naidu diagnosed the appellant with PTSD from the events of sexual abuse, but that the MOD was due to events that were not covered (in particular, the death of the appellant's husband).

[27] On 23 May 2022, Dr Sophie Dickson, Psychology Adviser, advised that there was clear evidence of PTSD on 10 December 2008, in the notes of the GP which stated that the appellant was having flashbacks and panic attacks.

[28] On 30 June 2022, Dr Robin Griffiths, Principal Clinical Advisor, concluded:

1. PTSD, GAD. and on certain periods MOD were the cause of her complete incapacity 2008-2010.
2. ACC 18s issued 2008-2010 refer to sexual abuse, depression, anxiety, consistent with 1 above.

[29] On 7 July 2022, Dr Griffiths reiterated his opinion that the MOD was a concomitant of the appellant's PTSD and that incapacity from her covered injuries began on 1 October 2008, although she had first reported mental health problems related to sexual abuse in 2006, without work incapacity.

[30] On 21 July 2022, the Corporation wrote to the appellant noting that Ms Naidu had submitted a supported assessment report in May 2022, and that this confirmed that the decision for cover of PTSD, Major Depressive Disorder and Generalised Anxiety Disorder that was originally issued on the 6 September 2016 was still correct.

[31] On 15 August 2022, the Corporation confirmed to the appellant as follows:

This letter clarifies that the date of injury for all approved diagnoses under this claim remains 21 July 2005. When ACC accepted "your claim for cover" on 8 September 2005, it accepted cover for all the clinically significant mental consequences of the sexual abuse events. While ACC later updated your claim with specific diagnoses, the date of injury did not change.

[32] The appellant applied to review this decision.

[33] On 13 February 2023, review proceedings were held in relation to the Corporation's decisions of 7 December 2021 and 15 August 2022. On 3 March 2023, the Reviewer dismissed the review, on the basis that the appellant was not entitled to weekly compensation or to further cover for PTSD.

[34] On 9 March 2023, an email from the Medical Council of New Zealand to the appellant advised that a psychiatrist is the best person legally to make a diagnosis for PTSD, but that a General Practitioner with experience in the area could also make the diagnosis, depending on the circumstances of why the diagnosis was important. On an unknown date, Dr Conolly advised, in response to the appellant's question as to whether he was qualified to give a diagnosis of PTSD, replied "no not really".

[35] On 27 March 2023, a Notice of Appeal was lodged.

[36] On 11 July 2023, Dr Dickson responded to a request that she reconsider her earlier advice on the appellant in light of new evidence filed by her, and advised:

I consider that my earlier advice of 23 May 2023 remains correct. Symptoms, such as flashbacks are specific to PTSD and so only fall under the category of a trauma response like PTSD. Having considered the new evidence filed by [the appellant] with the District Court and reconsidered the information on the ACC file (including medical records), I remain of the view there is clear evidence that [the appellant] was presenting with PTSD symptoms when she sought treatment from her GP on 10 December 2008 and that she continued to present with PTSD symptoms throughout 2009 and 2010 according to the information held on ACC's files as measured against the DSM-5 criteria ...

Relevant law

[37] Section 67 of the Act provides that a claimant who has cover for an injury and who meets the applicable eligibility criteria is entitled to the entitlement. The eligibility criteria are set out in specific sections of the Act, relevant to the entitlement requested. Section 6 of the Act provides that “entitlement” means the entitlements described or referred to in section 69. Section 69(1)(c) refers to weekly compensation as an entitlement provided under the Act.

[38] Sections 100 to 103 and Part 2 of Schedule 1 of the Act contain the eligibility criteria for weekly compensation. Clause 32 of Schedule 1 provides that the Corporation will pay weekly compensation for loss of earnings if a claimant has an incapacity arising from a covered personal injury and the claimant was an earner immediately before their incapacity commenced.

[39] Clause 52 of Schedule 1 provides:

52 Relationship between weekly compensation and New Zealand superannuation

- (1) Subclause (2) applies to a claimant who—
 - (a) first becomes entitled to weekly compensation before reaching New Zealand superannuation qualification age; and
 - (b) has been entitled to it for 24 months or longer before reaching that age.
- (2) The claimant loses entitlement to weekly compensation on reaching that age.
- (3) Subclause (4) applies to a claimant who first becomes entitled to weekly compensation —
 - (a) less than 24 months before reaching New Zealand superannuation qualification age; or

(b) on or after reaching New Zealand superannuation qualification age.

- (4) The claimant is entitled to weekly compensation for 24 months from the date of entitlement to the compensation.
- (5) Nothing in this clause entitles a claimant to weekly compensation if the claimant is not otherwise entitled to it under this Act.

[40] In *Stewart*,¹ Collins J reviewed the legislative history of the antecedent acts and the policies that led Parliament to adopt clause 52.4. His Honour noted that in the current approach:

[26] ... Parliament has endeavoured to manage the relationship between weekly compensation entitlements and New Zealand superannuation by providing for a limited degree of overlap between the two schemes ...

[41] Collins J considers the different scenarios covered by clause 52, the purpose of which is to manage the interface between the two schemes. In considering Scenario 1, the scenario relevant to the present case, he said:

[22] Scenario 1 is governed by sub-cl 52(1) and (2) of Schedule 1 of the Act. To be in this category a person must have first become entitled to weekly compensation 24 months or more, before they turn 65, which is the New Zealand superannuation qualification age. Once a person in this category turns 65 they lose their entitlement to weekly compensation.

[42] In *Fiske*,² Joyce DCJ stated:

[37] In my view the case of Ms Fiske does indeed fall squarely within Collins J's scenario 1. The crucial issue is when (as regards the causative of the symptomology personal injury event) Ms Fiske first became entitled to weekly compensation and, on the facts of this case as ultimately disclosed, that entitlement arose in and on account the November 1998 injury. In other words, Ms Fiske first, and relevantly here, became entitled to weekly compensation many years (and thus far more than 24 months) before she reached age 65.

[43] In *Angus*,³ Henare DCJ stated:

[66] The effect of clause 52 of Schedule 1 to the Accident Compensation Act 2001 (the Act) is plain that Ms Angus' entitlement to weekly compensation ceased the date she turned 65 years.

¹ *Accident Compensation Corporation v Stewart* [2012] NZHC 772.

² *Fiske v Accident Compensation Corporation* [2012] NZACC 283.

³ *Angus v Accident Compensation Corporation* [2020] NZACC 5.

[67] It is also clear that Ms Angus falls within “Scenario 1” as identified by the High Court in *Stewart*. The facts in Ms Angus’ case show she received weekly compensation over a number of years before turning 65.

[68] Ms Angus’ concerns that the Corporation will not provide any treatment for her covered injuries now that she is aged 65, is not a correct interpretation of the Corporation’s decision. Ms Angus remains entitled to treatment costs and rehabilitation under the Act. She remains entitled to a lump sum if her condition deteriorates by reason of her accidents.

[69] It is the entitlement to receive weekly compensation that ceases upon reaching the superannuation qualification age. The Act provides that New Zealand Superannuation is appropriate compensation. That is a decision the Parliament has made, not the Corporation, and there is nothing the Corporation can do about that.

The appellant’s submissions

[44] The appellant submits as follows. She suffered sexual abuse from a doctor as a child and then from a family member as a teenager. She was granted cover for a sensitive claim, and she was paid weekly compensation between October 2008 and December 2010. After her return to work in late 2010, she continued working for many years despite her covered mental conditions.

[45] In relation to PTSD, this was suggested to her by her sexual abuse counsellor Ms McEnteer in 2016. In 2016, Dr Dara diagnosed the appellant with PTSD, attributed to events that had occurred over the three previous years (an abusive relationship with her partner). It was not possible for her GP to diagnose this in 2010, as it can only be diagnosed by a psychiatrist or clinical psychologist. References to flashbacks are not sufficient to say that she was diagnosed with PTSD. A medical definition of PTSD requires a prolonged period of experiencing flashbacks, for over a month, and that was not her situation in 2008-2010. Her PTSD commenced around 2016, and so is a new injury that entitles her to further weekly compensation.

Discussion

Weekly compensation (Corporation decision of 7 December 2021)

[46] The issue here is whether the appellant, having reached the age of 65 on 20 March 2015, and having been earlier entitled to weekly compensation for more than two years, is entitled to further weekly compensation. On 16 November 2021,

Dr Insley certified that the appellant was fully unfit to work from 16 November 2021 to 7 December 2021.

[47] This Court acknowledges that the Corporation's approach to interpreting clause 52 of Schedule 1 of the Act has been to allow for weekly compensation to be paid (after the age of 65) if the covered injury was not an injury that had been covered and for which weekly compensation had been paid, prior to the age of 65. However, the Court notes the following considerations.

[48] First, there is no dispute that the appellant became entitled to and was granted weekly compensation payments for incapacity between 9 October 2008 and 19 December 2010 (that is for two years and over two months), arising out of her covered sensitive claim injury, and that she reached the age of 65 on 20 March 2015.

[49] Second, clause 52(1)(2) of Schedule 1 of the Act states that a claimant loses entitlement to weekly compensation on reaching New Zealand superannuation qualification age (that is, 65), if the claimant first becomes entitled to weekly compensation before reaching that age and has been entitled to it for 24 months or longer before reaching that age. Clause 52(5) of Schedule 1 states that nothing in this clause entitles a claimant to weekly compensation if the claimant is not otherwise entitled to it under this Act. Thus, on a literal interpretation of the Act, the appellant lost her entitlement to further weekly compensation when she reached 65.

[50] In terms of a purposive interpretation of clause 52 of Schedule 1, the High Court has explained that, in this clause, Parliament has endeavoured to manage the relationship between weekly compensation entitlements and New Zealand superannuation by providing for a limited degree of overlap between the two schemes. The High Court noted that, once a person in the category of clause 52(1)-(2) turned 65, he or she lost entitlement to weekly compensation.⁴ Thus, Parliament has decided that, for claimants such as the appellant, their superannuation is appropriate compensation, and there is nothing that the Corporation or this Court can do about the matter.⁵

⁴ *Stewart*, above note 1, at [22] and [26].

⁵ *Angus*, above note 2, at [69].

Cover for further mental injuries (Corporation decision of 15 August 2022)

[51] The issue here is whether the appellant, who had been granted cover for mental injury as a consequence of her sexual abuse, was entitled to the grant of cover for PTSD (as later diagnosed) as a new injury. This Court notes that, on 8 September 2005, the appellant was granted cover for her sensitive claim for mental injury arising out of sexual abuse in her early life, with a deemed date of injury being 21 July 2005 (when she first received treatment for her injury). The Court acknowledges that, at the time of the grant of cover in 2005, the appellant had not been explicitly diagnosed with PTSD; and that the explicit diagnosis of PTSD was made only in 2016. The appellant therefore claims that cover for PTSD should be granted as a distinct injury.

[52] This Court points to the following considerations.

[53] First, when the Corporation accepted the appellant's claim for cover on 8 September 2005, it accepted cover for all the clinically significant mental consequences of her covered injury. This is indicated by the ensuing grant of entitlements including counselling and later weekly compensation; and was later confirmed by the Corporation on 15 August 2022.

[54] Second, on 6 September 2016, the Corporation issued a decision updating cover on the appellant's sensitive claim with specific diagnoses being: (a) PTSD; (b) major depressive disorder; and (c) generalised anxiety disorder. This Court notes that, since that time, the appellant has had, and continues to have, explicit cover for PTSD and the entitlements that accrue to her (with the exception of further weekly compensation after reaching 65, as noted above). The Corporation clarified on 15 August 2022 that the date of injury for all approved diagnoses under the appellant's claim remained 21 July 2005, and, while the Corporation later updated her claim with specific diagnoses, the date of injury did not change.

[55] Third, there are multiple medical records and assessments that show that the appellant was experiencing PTSD symptoms when she sought treatment from her GP, Dr Conolly, on 10 December 2008, and continued to do so before she was explicitly diagnosed with this condition:

- (a) Medical consultation notes of 1 October 2008, 10 December 2008, 23 July 2009, 5 August 2009, 15 March 2010, and 1 December 2010;
- (b) Medical certificates and advice provided by Dr Conolly, GP, on 10 and 16 December 2008, and 25 March 2009;
- (c) An assessment by Dr Bailey, Impairment Assessor, on 17 November 2009;
- (d) An assessment by Dr Fenwicke, IMA Assessor, on 2 March 2010;
- (e) An action plan by Ms Calder, Clinical Psychologist, on 6 September 2011;
- (f) Advice from Ms Swan, Psychology Advisor on 1 March 2022;
- (g) Advice from Dr Dickson, Psychology Advisor, on 23 May 2022 and 11 July 2023;
- (h) Advice from Dr Griffiths, Principal Clinical Advisor, on 30 June 2022, and 7 July 2022.

[56] Fourth, the diagnosis of PTSD made by Dr Dara, Psychologist, on 1 July 2016, while referring to the fact that the appellant had not been diagnosed with PTSD in previous assessments, stated that she suffered from PTSD as well as anxiety and depression. In Dr Dara's opinion, the three conditions were directly linked and in most parts caused by the sexual assaults the appellant experienced *as a child* and reinforced by the ongoing sexual assaults she endured as an adult.

Conclusion

[57] In light of the above considerations, the Court finds that the following decisions of the Corporation are correct:

- (a) the Corporation's decision dated 7 December 2021, determining that the appellant was no longer entitled to weekly compensation as she was over 65 and had received weekly compensation for two years or more before turning 65; and

- (b) the Corporation's decisions dated 15 August 2022, declining cover for further mental injuries.

[58] The decision of the Reviewer dated 3 March 2023 is therefore upheld. This appeal is dismissed.

[59] I make no order as to costs.

[60] This Court reiterates that, as the Corporation explained in its letter to the appellant on 7 December 2021, while she cannot receive further weekly compensation, she continues to be entitled to other assistance towards her recovery and treatment costs arising out of her covered injuries.

Suppression

[61] I consider it is necessary and appropriate to protect the privacy of the appellant. This order, made under s 160(1) of the Accident Compensation Act 2001, forbids publication of the name, address, occupation, or particulars likely to lead to the identification of the appellant. As a result, this proceeding shall henceforth be known as *MJ v Accident Compensation Corporation*.

A handwritten signature in dark ink, appearing to read 'P R Spiller', written in a cursive style.

P R Spiller
District Court Judge