

**The Workers' Compensation Board of British Columbia** *Appellant*

v.

**Dr. G.S. Singh** *Respondent*

and

**Frances Elizabeth Kovach** *Respondent*

and between

**Dr. G.S. Singh** *Appellant*

v.

**Frances Elizabeth Kovach** *Respondent*

and

**The Workers' Compensation Board of British Columbia** *Respondent*

and

**The Workers' Compensation Board of Saskatchewan, the Workers' Compensation Board of Nova Scotia, the Workers' Compensation Board of Alberta, the Workplace Health, Safety and Compensation Commission of New Brunswick, the United Association of Injured and Disabled Workers, the Vernon Injured Workers Support Group, the Canadian Injured Workers' Prince George, the Northern Vancouver Island Brain Trauma Society and the Ontario Network of Injured Workers' Groups** *Intervenors*

INDEXED AS: KOVACH v. BRITISH COLUMBIA (WORKERS' COMPENSATION BOARD)

Neutral citation: 2000 SCC 3.

File No.: 25784.

**Le Workers' Compensation Board de la Colombie-Britannique** *Appelant*

c.

**Dr G.S. Singh** *Intimé*

et

**Frances Elizabeth Kovach** *Intimée*

et entre

**Dr G.S. Singh** *Appelant*

c.

**Frances Elizabeth Kovach** *Intimée*

et

**Le Workers' Compensation Board de la Colombie-Britannique** *Intimé*

et

**Le Workers' Compensation Board de la Saskatchewan, le Workers' Compensation Board de la Nouvelle-Écosse, le Workers' Compensation Board de l'Alberta, la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail du Nouveau-Brunswick, la United Association of Injured and Disabled Workers, le Vernon Injured Workers Support Group, le Canadian Injured Workers' Prince George, la Northern Vancouver Island Brain Trauma Society et l'Ontario Network of Injured Workers' Groups** *Intervenants*

RÉPERTORIÉ: KOVACH c. COLOMBIE-BRITANNIQUE (WORKERS' COMPENSATION BOARD)

Référence neutre: 2000 CSC 3.

Nº du greffe: 25784.

2000: January 20.

Present: McLachlin C.J. and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache and Binnie JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR  
BRITISH COLUMBIA

*Workers' compensation — Limitation of right of action — Employee's back injured in course of employment — Employee experiencing continuing back pain — Doctor who operated on employee providing standard treatment — Employee's action in negligence against doctor barred by workers' compensation legislation.*

#### Statutes and Regulations Cited

*Workers' Compensation Act*, R.S.B.C. 1979, c. 437, s. 11.

APPEAL from a judgment of the British Columbia Court of Appeal (1998), 52 B.C.L.R. (3d) 98, 108 B.C.A.C. 283, 176 W.A.C. 283, 12 Admin. L.R. (3d) 180, [1999] 1 W.W.R. 498, [1998] B.C.J. No. 1245 (QL), setting aside a certificate issued by the Workers' Compensation Board. Appeal allowed.

*R. Mark Powers and Scott A. Nielsen*, for the appellant the Workers' Compensation Board of British Columbia.

*James M. Lepp and Abigail C. F. Turner*, for the appellant Singh.

*Scott B. Stewart and Sandra M. Katalinic*, for the respondent Kovach.

*Robert G. Richards, Q.C., and Wayne P. Dale*, for the intervener the Workers' Compensation Board of Saskatchewan.

*Janet E. Curry and Nancy L. MacCready-Williams*, for the intervener the Workers' Compensation Board of Nova Scotia.

*Manoj Gupta*, for the intervener the Workers' Compensation Board of Alberta.

2000: 20 janvier.

Présents: Le juge en chef McLachlin et les juges L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache et Binnie.

EN APPEL DE LA COUR D'APPEL DE LA COLOMBIE-BRITANNIQUE

*Accidents du travail — Restriction au droit d'action — Employé blessé au dos dans l'exercice de ses fonctions — Employé éprouvant constamment des douleurs au dos — Employé soumis à un traitement de qualité inférieure par le médecin qui l'a opéré — Loi sur les accidents du travail interdisant l'action pour négligence intentée par l'employé contre le médecin.*

#### Lois et règlements cités

*Workers' Compensation Act*, R.S.B.C. 1979, ch. 437, art. 11.

POURVOI contre un arrêt de la Cour d'appel de la Colombie-Britannique (1998), 52 B.C.L.R. (3d) 98, 108 B.C.A.C. 283, 176 W.A.C. 283, 12 Admin. L.R. (3d) 180, [1999] 1 W.W.R. 498, [1998] B.C.J. No. 1245 (QL), qui a annulé un certificat délivré par le Workers' Compensation Board. Pourvoi accueilli.

*R. Mark Powers et Scott A. Nielsen*, pour l'appelant le Workers' Compensation Board de la Colombie-Britannique.

*James M. Lepp et Abigail C. F. Turner*, pour l'appelant Singh.

*Scott B. Stewart et Sandra M. Katalinic*, pour l'intimée Kovach.

*Robert G. Richards, c.r., et Wayne P. Dale*, pour l'intervenant le Workers' Compensation Board de la Saskatchewan.

*Janet E. Curry et Nancy L. MacCready-Williams*, pour l'intervenant le Workers' Compensation Board de la Nouvelle-Écosse.

*Manoj Gupta*, pour l'intervenant le Workers' Compensation Board de l'Alberta.

*Richard J. Tingley, Q.C.*, for the intervener the Workplace Health, Safety and Compensation Commission of New Brunswick.

*James F. Sayre*, for the interveners the United Association of Injured and Disabled Workers et al.

The judgment of the Court was delivered orally by

THE CHIEF JUSTICE — We are all of the view, substantially for the reasons of Donald J.A. in the British Columbia Court of Appeal, to allow the appeal, set aside the judgment of the Court of Appeal, and restore the s. 11 certificate order of the Workers' Compensation Board, with costs to the appellant Dr. Singh here and in the courts below.

*Judgment accordingly.*

*Solicitors for the appellant the Workers' Compensation Board of British Columbia: The Workers' Compensation Board, Legal Services Department, Richmond.*

*Solicitors for the appellant Singh: Harper Grey Easton, Vancouver.*

*Solicitors for the respondent Kovach: Stewart & Company, Vancouver.*

*Solicitors for the intervener the Workers' Compensation Board of Saskatchewan: MacPherson Leslie & Tyerman, Regina.*

*Solicitor for the intervener the Workers' Compensation Board of Nova Scotia: The Workers' Compensation Board, Halifax.*

*Solicitor for the intervener the Workers' Compensation Board of Alberta: The Workers' Compensation Board, Legal Services Department, Edmonton.*

*Richard J. Tingley, c.r.*, pour l'intervenante la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail du Nouveau-Brunswick.

*James F. Sayre*, pour les intervenants la United Association of Injured and Disabled Workers et autres.

Version française du jugement de la Cour rendu oralement par

LE JUGE EN CHEF — Nous sommes tous d'avis, essentiellement pour les raisons exposées par le juge Donald de la Cour d'appel de la Colombie-Britannique, qu'il y a lieu d'accueillir le pourvoi, d'annuler l'arrêt de la Cour d'appel et de rétablir l'ordonnance dans laquelle le Workers' Compensation Board a délivré un certificat en vertu de l'art. 11, l'appelant le D<sup>r</sup> Singh ayant droit à ses dépens en notre Cour et dans les tribunaux d'instance inférieure.

*Jugement en conséquence.*

*Procureurs de l'appelant le Workers' Compensation Board de la Colombie-Britannique: Le Workers' Compensation Board, Legal Services Department, Richmond.*

*Procureurs de l'appelant Singh: Harper Grey Easton, Vancouver.*

*Procureurs de l'intimée Kovach: Stewart & Company, Vancouver.*

*Procureurs de l'intervenant le Workers' Compensation Board de la Saskatchewan: MacPherson Leslie & Tyerman, Regina.*

*Procureur de l'intervenant le Workers' Compensation Board de la Nouvelle-Écosse: Le Workers' Compensation Board, Halifax.*

*Procureur de l'intervenant le Workers' Compensation Board de l'Alberta: Le Workers' Compensation Board, Legal Services Department, Edmonton.*

*Solicitor of the intervener the Workplace Health, Safety and Compensation Commission of New Brunswick: The Workplace Health, Safety and Compensation Commission, Saint John, New Brunswick.*

*Solicitor for the interveners the United Association of Injured and Disabled Workers et al.: The Community Legal Assistance Society, Vancouver.*

*Procureur de l'intervenante la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail du Nouveau-Brunswick: La Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail, Saint-Jean, Nouveau-Brunswick.*

*Procureur des intervenants la United Association of Injured and Disabled Workers et autres: La Community Legal Assistance Society, Vancouver.*