

THE CITY OF MOOSE JAW TO PAY \$13.2 MILLION AWARD

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While walking to school on her first day of kindergarten, Jennifer New, age 4, became a statistic. She was hit by a speeding car and rendered a quadriplegic. 13 years after the accident, and once she reached the age of majority, Jennifer began her lawsuit. She has sued the city of Moose Jaw, its former police chief, the driver of the vehicle and the vehicle's owner to pay for her permanent injuries and the cost to be able to live independently. The award was just over \$13.8 million with a further \$1.7 million going to her parents to cover the cost of her care for the past 13 years. Jennifer requires 24 hour a day care and a ventilator to breathe. However she has graduated from high school with honours and is hoping to earn a degree in psychology.

Prior to the case going to trial, settlements were reached with the Moose Jaw Public School Division for \$2,050,000 and an ambulance company for \$475,000 these amounts will be deducted from the \$15.5 million court award to Jennifer and her family.

The trial began in January 2004, and lasted 5 weeks. The six women jury deliberated for 3 days before returning of verdict that found the city 45% negligent, the driver 35% negligent and the former police chief 20% negligent in the accident. During their deliberations, the jury determined that the city had failed to regulate the speed limits near the

school, had insufficient signage, no painted centre line on the road and no painted crosswalk. In addition, it was found that the Chief of Police did not comply with a safety school patrol bylaw. The driver of the vehicle was 16 at the time of the accident and carried only the minimum amount of insurance required by Saskatchewan, \$200,000. He admitted that his speeding and lack of care caused or contributed to the accident. Under Saskatchewan law, if any defendant is found to be at fault, but is unable to pay the judgment, then that amount will be apportioned amongst the other at fault defendants based on their at fault percentages. In this case the city of Moose Jaw will then be liable for the vast majority of the settlement. Moose Jaw will also be required to pay defence costs and 14 years of prejudgment interest. It is expected that the case will be appealed.

Sources:

<http://www.legassembly.sk.ca>

www.cbc.ca

www.elliottsr.com

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