

# Does Workers' Comp Cover Injuries Workers Suffer While Traveling to Work?



Workers' comp covers the injuries a worker suffers in the course of their employment. Workers are basically on their own before they punch in and after they punch out each day. That means that they're generally not covered if they get hurt in a traffic accident while driving to and from work. However, the "course of employment" requirement is interpreted fairly broadly as including activities that are incidental to the performance of the employee's duties even if they take place before the official workday begins. Is driving to work incidental to employment? The following 2 cases are a good illustration of how courts and tribunals answer that question.

## **Traffic Injuries ARE Work-Related**

Here's a case from the high court of Nova Scotia that went in the worker's favour.

### **Situation**

A snowplow operator is expected to report to work at 7 AM. But because of an unexpected April snowstorm, his employer asks him to come in at 5 AM. While driving to work, his car slides off the icy road. The operator files a workers' comp claim for his resulting injury. The employer claims the injury isn't covered because it happened before his official workday started.

### **Ruling**

The Nova Scotia Court of Appeal rules that the snowplow operator's injuries were job-related.

### **Reasoning**

In general, injuries suffered by an employee while traveling to work aren't job-related because "the risks of getting to work are the general risks of life, not the risks of employment." But the Court said that this case was different because:

- Although he wasn't being paid at the time of the accident, operator came in early because his employer expressly asked him to do so to deal with an emergency.
- Once he accepted the request, he knew he had to report within 30 minutes.

- Driving through unplowed roads to get to work, although not strictly part of the operator's contract, was "a natural incident connected" with the work of a snowplow operator and is thus job-related.

**Result:** The operator had a compensable claim.

[Puddicombe v. Workers' Compensation Board \(N.S.\)](#), 2005 NSCA 62 (CanLII).

## Traffic Injuries ARE NOT Work-Related

While this case looks a lot like what happened in *Puddicombe*, there were some subtle but significant differences that led to a totally opposite ruling.

### Situation

A landscaping foreman driving to work in a company-owned truck deviates from his normal route to pick up a co-worker. While stopped in traffic, the truck is rear-ended by a school van, which is in turn rear-ended by a dump truck. As a result, the foreman suffers neck and back injuries. He files a workers' comp claim but the company claims the injuries aren't work-related.

### Ruling

The Ontario Workplace Safety and Insurance Appeals Tribunal rules that the foreman's injuries didn't occur in the course of his employment.

### Reasoning

Like the snowplow operator in *Puddicombe*, the foreman argued that the injury was covered even though it happened before he was "on the clock." But this time, the argument didn't work because:

- The foreman was coming to work at his normal time and wasn't called in to address an emergency like the snowplow operator in *Puddicombe*.
- Picking up his coworker was "more of a voluntary arrangement between friends than an obligation mandated by the employer".
- The car accident was the kind of traffic accident that can happen to anybody no matter what kind of job they did—things might have been different had he been injured in a landscaper-ish way, such as while using a lawnmower to perform landscaping duties.
- Although the truck the foreman was driving was company-owned, it wasn't the "principal tool of his employment."

**Result:** The foreman wasn't entitled to workers' comp benefits.

[Decision No. 297/06](#), 2006 ONWSIAT 545 (CanLII).