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Yonge St. van attack lawsuits face hurdles with insurance claims

By **ALYSHAH HASHAM** Courts Reporter

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If a drunk driver veered onto a sidewalk, killing 10 people and injuring 16, his auto insurance policy would typically pay damages awarded to the injured parties in a lawsuit.

But if the driver was found to have driven into the pedestrians intentionally – as Alek Minassian is **alleged to have done with a rented van** in April 2018 – the insurance providers could argue that no payout is required. Alternatively, they might offer a reduced payout of as little as \$200,000 – the statutory minimum for coverage – no matter how much the driver was insured for, and that amount would be shared among the many victims.



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Police work at the scene on Yonge St. at near Finch Ave. after a van plowed into pedestrians on April 23, killing 10 people and injuring another 16. (COLE BURSTON / GETTY IMAGES)

With the first of several expected lawsuits against Minassian and the van rental company now filed with the court, experts say the victims of the Yonge St. rampage may be denied the benefits they would have received in a typical collision case.

“While insurance policies cover most vehicular conduct, if you intentionally injure someone with your car it does not provide coverage because insurance is not intended to cover intentional criminal wrongdoing,” said personal injury lawyer Darcy Merkur.

Merkur has filed a \$6-million dollar lawsuit against Minassian and the rental van company on behalf of Amir Kiumarsi, who was severely and permanently injured in the incident.

The lawsuit alleges Minassian deliberately drove into Kiumarsi and the other pedestrians, or that his negligence resulted in him driving into the pedestrians. It also alleges the rental company, Ryder Rental Truck Canada Ltd., was negligent in allowing Minassian to rent and drive the van.

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None of the allegations in the statement of claim have been tested in court and no statements of defence have been filed. Minassian’s lawyer in the civil case did not respond to a request for comment. Minassian’s criminal case is ongoing and a trial has not yet been scheduled.

In a written statement, Ryder spokesperson Amy Federman said the company’s position — which has not been tested in court — is that Minassian used a “properly rented Ryder van” to commit “premeditated and intentional” acts.

Federman said Ryder follows the industry best practices for security and has cooperated with the investigation into an incident it views as “unforeseeable and senseless.”

“Ultimately, the question is, who pays for my innocent client’s damages, if anyone?” said

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Kiumarsi's own insurance provider is also listed as a defendant in the lawsuit because, if the other insurance providers only end up paying a fraction of what Kiumarsi is awarded, his own insurance could cover the rest, Merkur said.

However, he said, this leaves plaintiffs who don't have their own auto insurance in a difficult position.

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They may be able to obtain some money from the "last resort" [Motor Vehicle Accident Claims Fund](#) operated by the province but that amount would be capped, he said.

Merkur says one argument that the plaintiffs may pursue is asking the court to treat each person injured as a separate incident, allowing them to each be entitled to \$200,000 rather than having to divide that amount.

"You take the horror of this experience, of being injured in the van attack, and then you tell them, 'By the way, all of those things you'd be eligible to recover if this was a normal accident aren't available to you.' It's just very hard to explain that to accident victims," Merkur said.

"The system is broken."

Erik Knutsen, a Queen's University law professor specializing in insurance law, said the difference between Minassian's case and other criminal driving offences, such as impaired driving or dangerous driving, is the apparent intent to harm.

"A drunk driver is an idiot and shouldn't have been drinking," said John McLeish, a personal injury lawyer whose firm will be representing three plaintiffs in lawsuits against Minassian which have not yet been filed. "But that drunk driver didn't intend to injure or kill someone."

This makes Minassian's defence in the criminal case — and the outcome of the case — particularly important to the civil lawsuits.

It also raises the question of whether it is time for the provincial government to increase minimum statutory third-party coverage to \$1 million — the minimum amount offered by most insurance companies now, says personal injury lawyer Joseph Campisi.

"The damage that can be caused in a single accident can easily be in excess of \$200,000. Maybe now is the time to think about changing that to be in line with today's expectations," said Campisi, who is not involved in the Minassian case.

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