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Deductibility of Collateral Benefits by Unprotected Defendants

In *Burhoe v. Mohammed et. al.* [2009] 97 O.R. (3d) 391, the Ontario Superior Court of Justice held that "unprotected defendants" in a motor-vehicle accident suit may deduct collateral benefits from a Plaintiff's damages for income loss, under s.267.8(1) of the Insurance Act.

Remember that such benefits are deductible if "received or available", and include CPP disability, Social Assistance, no-fault benefits (IRBs), sickness benefits (LTDs), etc.

All a Plaintiff must do is apply for the available benefits, to comply and avoid the deduction. However they cannot settle their entitlement to collaterals in bad faith, or fail to provide notice or attend required medicals to secure the collateral benefits. (see. s.267.8(22).)

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