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The “Purposive” Approach to Statutory Interpretation: What Does it Mean?

To understand the meaning of words in a statute, Courts have to understand the statute’s intent. The purpose of an Act, i.e. why it was enacted and how it came to be, is not just a relevant factor in deciding how to give effect to a statute’s words, but is essential to determining its meaning.

Since the Supreme Court of Canada’s decision in *Re Rizzo & Rizzo Shoes Ltd.*, 1998 1 S.C.R. 27, Canadian Courts have echoed the mantra that the modern approach to statutory interpretation involves a “textual, contextual and purposive analysis of the statute or [the] provision in question”.

But what does it mean to give effect to a statute’s purpose?

A recent decision of the Ontario Court of Appeal, *Ayr Farmers Mutual Insurance Co. v. Wright*, 2016 ONCA 789, per Simmons J.A., emphasizes the centrality of a statute’s purpose in determining the meaning of specific provisions in an Act.

Ayr Farmers makes it clear that Legislative intent matters. Even where the Legislature has taken the

trouble to define a term in a statute, the Court will assess the defined term by reference to the statute’s purpose and history.

Facts

Ayr Mutual involved a claim by an insured, Mr. Wright, for statutory accident benefits (“SABS”) following an accident in his garage.

Mr. Wright’s insurer denied him SABS, claiming that his injuries were not the result of an “accident” as defined in the *Ontario Statutory Accident Benefits Schedule*, O. Reg. 34/10 (the “Schedule”).

Under section 279 of the *Insurance Act*, R.S.O. 1990, c.I.8 (the “*Insurance Act*”), disputes concerning an insured’s right to SABS are to be submitted to mediation before any litigation can be started. Mr. Wright applied for mediation with his insurer.

Rather than participate in the mediation process set out in the *Insurance Act*, the insurer started an application in the Ontario Superior Court for a preliminary determination of issues.



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In effect, the insurer's argument was: (i) the dispute resolution process under section 279 of the *Insurance Act* could only be triggered "in respect of any insured person's entitlement to statutory accident benefits"; (ii) to qualify as an "insured person" under the Schedule, the claimant must have been involved in an "accident"; and (iii) the preliminary issue of whether a claimant was involved in an "accident" and therefore qualified as an "insured person" under the Schedule had to be determined by the Court first, before the alternative mediation scheme under section 279 of the *Insurance Act* applied.

The Superior Court rejected the insurer's argument. The Court held that the mediation process under the *Insurance Act* covered all disputes relating to SABS, including the preliminary question of whether the claimant was involved in an accident and qualified as an insured person under the Schedule.

The insurer appealed to the Court of Appeal for Ontario. The Court upheld the applicant judge's ruling and rejected the insurer's arguments.

The Court's analysis turned primarily on the purpose and intent of the mediation scheme under the *Insurance Act*.

The Purposive Approach to Statutory Interpretation

Citing *Re Rizzo & Rizzo Shoes Ltd*, amongst other cases, the Court of Appeal began its analysis by noting that the modern approach

to statutory interpretation requires that the words of a statute be read "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament".

The Court noted that the purposive approach to statutory interpretation involved the consideration of three factors:

- the language of the provision;
- the context in which the language is used; and
- the purpose of the legislation or statutory scheme in which the language is found.

While the words used in a statute cannot be "stretched beyond [their] ordinary meaning", the Courts should construe statutory language in accordance with the object and intent of the legislation.

This approach is consistent with section 64(1) of the Ontario *Legislation Act, 2006*, S.O. 2006, c.21, which provides that an Act "shall be interpreted as being remedial and shall be given such fair, large, and liberal interpretation as best ensures the attainment of its objects".

What Did the Legislature Intend in Creating a Mediation Scheme?

Following the approach above, the Court rejected the insurer's argument that the issues of whether Mr. Wright was involved in an "accident" and therefore whether he qualified as an "insured person" under section 279 of the *Insurance Act* were coverage issues that had to

be determined in Court first, before the mediation process under section 279 could be engaged.

The Court held that at the time the Ontario Legislature introduced SABS as part of a no-fault insurance regime in the Province, the Court also created a dispute resolution service in which the Financial Services Commission of Ontario oversaw the resolution of SABS disputes falling under section 279 of the *Insurance Act*.

Moreover, the Court observed that section 281(2) of the *Insurance Act* specifically provides that no person can bring a proceeding in any court unless mediation was "sought and failed".

Accordingly, the Court's view was that the mediation scheme under the *Insurance Act* was created to incentivize SABS claimants to refer their disputes to mediation and arbitration, rather than commence litigation.

The insurer's position that the parties ought to resolve the SABS coverage issues in Court first ran contrary to the very purpose of the legislation:

Viewed in the context of this comprehensive alternative dispute resolution scheme, I consider it unlikely that the legislature intended that SABS claimants or insurers would have to bring court proceedings to trigger the s.279 [alternative dispute resolution] scheme.

Further, it was unlikely that the legislature intended to "create a

bifurcated process under which either the SABS claimant or the insurer would have to bring a court proceeding before advancing their claim under the s.279 scheme”.

In view of the purpose of section 279, i.e. to create a form of alternative dispute resolution to litigation, it was unlikely that the words “insured person” excluded people simply claiming entitlement to SABS benefits, whether or not it is determined that they have a right to such benefits.

This interpretation aligns with the “legislature’s intention of creating a comprehensive, expeditious and effective dispute resolution scheme”.

Purpose Matters

Ayr Farmers illustrates the primacy of statutory purpose in determining the meaning of words used in an Act. A statute’s history and object play a central role in how Courts approach the language of legislation.

While the “ordinary meaning” of words still plays a fundamental role in the judicial interpretation of statutes, Legislative intent will inevitably inform the Courts’ method when analyzing the meaning of statutory provisions.

In this way, the purposive approach to statutory interpretation shows significant deference to Parliament.

Courts will interpret the words chosen by Parliamentarians in accordance with Parliament’s underlying objects and purpose. In the Court’s view, a statute is the embodiment of Parliamentary intent.