

**Welcome to the information podcast series brought to you by the
Lerners Injury Law Group.**

**This podcast has been designed to help answer some questions you may have as you
make a decision to hire a lawyer.**

Now, here's Bill Simpson and special guest host, Kim Munro.

Accident Coverage Outside of Ontario

Bill: Kim, it's great to have you as co-host of this podcast. One of the things that I think we're really proud of in our injury law group here is that we do well with complicated cases. I've always thought that most lawyers can do the easy ones, not all lawyers can do the complicated ones and there may be somebody listening to this podcast who fits that complicated category. One of the topics that you and I want to talk about this morning was the fact that people who have their accident in the United States (US) but ordinarily live in Ontario must be sitting there thinking, holy mackerel, how do I figure this out.

Kim: Exactly Bill, and you're right. We love to be challenged here at Lerners and in our personal injury group and it is my pleasure to be co-hosting this episode with you today, but I do find there are a lot of people, given our geographic location in southwestern Ontario, that we do, from time to time, run across clients who have been, for instance, over in the State of Michigan, maybe just over for shopping, and something unfortunate happens, they get involved in a car accident and, quite frankly, they're overwhelmed. Not knowing whether they need to go to an Ontario lawyer, go to a US lawyer, go to both, not really understanding the interplay of the two different insurance systems, so we're fortunate that we've got that expertise and can really assist people who are in that horrible, horrible circumstance of not knowing where to turn and what to do.

Bill: I know you've got a lot of experience in this area yourself and I want to talk about that with you in a minute but how can we simply explain the difference between the system we use in Ontario and the system which is common in the United States, recognizing that each of the fifty states have their own individual rules.

Kim: Well, there are two main differences between the two systems. In Ontario we have multiple coverages. We have coverages for accident benefits, often called no fault benefits, we have coverages for bringing a lawsuit against an at fault motorist, we have protection if the person who hit us is either uninsured or, what we call, underinsured. In the US it's a little different and it does vary from state to state. But what we commonly hear about, when we hear about accidents in Michigan, is their no fault system. A lot of people think, well, the no fault system I guess means that if I'm involved in an accident in Michigan then I can't bring a lawsuit but that's not entirely the case and that's why it's really important that they speak to an Ontario lawyer who can tell them what their options are. Let me just rephrase that, they need to talk to a qualified Ontario lawyer with some familiarity.

Bill: Well let me ask you this. If a person in Ontario has an accident in Michigan does that necessarily mean that the case that follows has to take place in Michigan?

Kim: The short answer is no.

Bill: It can happen here in Ontario.

Kim: It can happen here in Ontario especially where, and this is what we find in most cases arising out of Michigan claims, is that there's a minimum limit requirement in Ontario that

everyone carry \$200,000.00 of third party liability insurance. There isn't that same thing in Michigan. I've had cases where a person has been seriously hurt in an accident in Michigan and the at fault driver only had \$50,000.00 worth of third party liability. But that's not the end of the story. So if that person has a valid policy in Ontario and suffers injuries and assessed at more than that \$50,000.00 they have an option of asking their own insurer to compensate them.

Bill: When you're on a shopping trip to Detroit or you're over to see a sporting event, it doesn't take but a few miles to realize that the billboard industry in Detroit is, I think single-handedly, supported by personal injury lawyers, and so one of the questions I know which sometimes comes up is am I going to need two lawyers, am I going to need an American based lawyer for part of the case and am I going to need an Ontario based lawyer for part of the case. What do you say about that?

Kim: It really depends on the type of accident and also depends on the third party liability limits of the person who caused the accident. Even if you decide that you're going to bring an action in Michigan and you're going to hire a Michigan lawyer, there may be issues that require you to have an Ontario lawyer as well. The one is you decide you want to claim accident benefits through your Ontario policy, it's really important that you have an Ontario lawyer advising you of what those accident benefits are and how to access them. The other issue is that it's often very helpful to you to have an Ontario lawyer gathering the evidence; the treatment records, the medical evidence, helping co-ordinate your rehab.

Bill: So, I guess for somebody who is listening to this, is it this simple; if you are in an accident in any of the fifty United States, you will always have coverage under your own Ontario policy for accident benefits, that basic level of safety net coverage for treatment and some wage replacement, is that fair?

Kim: That is fair, and just to expand a little bit on that, if you are involved in an accident in any of the fifty United States, you have an election. You can elect to claim your accident benefits through your Ontario policy or, you can elect to claim accident benefits through the standard auto policy in place in the particular State in which you were injured.

Bill: And I think, in fact the law says that accident benefit coverage is in Canada, any of the fifty United States, or any vessel between the two, so if you're on the Walpole Island ferry and god forbid there's an accident involving your motor vehicle, you have coverage there.

Kim: Absolutely.

Bill: So the other part of what we were talking about relates to the traditional lawsuit model and that's where it gets a little more complicated.

Kim: It really does because if you have a person who has caused an accident who carries, let's say a million dollar policy, and if the million dollar policy is enough to respond to the type of claim that you have, then you will want to hire lawyer in that jurisdiction to bring that lawsuit for you.

Bill: That's often something we're asked to do. You may have an Ontario based client who is uncertain to call that lawyer on the billboard that they see on the I-75 in Detroit and so they say can you help me with that. One of the things for listeners is that we may be able to steer or direct you into the hands of an American lawyer who will do a good job for you and help you with your accident benefits here at home.

Kim: That's a really good point Bill, and you're right. You and I both have experience dealing with Michigan and lawyers in other jurisdictions and we can help weed out the good ones from the rest.

Bill: One of the things that we talk about regularly on the podcast is that people who are travelling to Michigan regularly, whether it's for work or for pleasure, when your policy comes due for renewal it's worth double checking the coverage that you have and considering what would happen to me from an insurance point of view if an accident happens in the United States and the person who hit me had little or no liability coverage available.

Kim: I think you're right Bill and we seldom do that exercise with our insurance agents or brokers. We never think we're going to be involved in an accident let alone one in Michigan or another state and we really never address what would happen if someone seriously hurt me or hurt my family and they had either no insurance or only a little, \$50,000.00, and that's where it's really important to know what your own third party liability limits are and maybe you could explain why that becomes important when you have someone who's, what I'm going to call under insured, causes an accident.

Bill: Under insured is a terrible concept to try to explain to somebody who got no familiarity or experience with it but when you buy your policy of auto insurance in Ontario, whether they tell you this or not, you automatically get under insured coverage. The way under insured coverage works is that if the person or persons who cause your accident and your injury don't have enough insurance money to pay you in full, or in a circumstance where there's multiple injuries, and amongst all the injured persons that person's policy can't pay in full, you may fall back on your own policy, usually, with lawyers there's always exceptions, but you can fall back on your own policy up to the limit of your own third party liability coverage. In a previous podcast Nigel and I spoke briefly about the umbrella policies and the fact that I carry a ten million dollar umbrella policy not so much because I'm worried about protecting my own assets, although that's part of it, I'm more concerned that I'm going to be in Michigan and be hit by somebody who's got \$25,000.00 of liability coverage and then what will I do. And so in a situation where the injury is very serious there's an opportunity to protect myself or to protect my family against a vehicle that's inadequately insured.

Kim: That's a tremendous point and I can't stress it enough. If you're travelling in the US, whether it's a day trip for shopping or you're going to spend a couple of weeks in Florida, you really got to think about this. Our main focus when we travel is all on our travel insurance and our health coverage but we really got to think about our auto coverages as well.

Bill: I agree. That was, what I think, a helpful topic for people to hear about because it's the type of thing that just doesn't occur to most people until it's too late. If you are a regular traveller to the United States by car or motorcycle, give it some thought. Take a look at your renewal notice when it comes and talk to your insurance broker.

[Music] Now, back to Bill and Kim.

Bill: Kim, we're fortunate to have Andrew Murray with us now. Andrew almost needs no introduction. He's a long time member of our injury law group, a partner here with us at Lerner and most recently has completed a term as President of the Ontario Trial Lawyers Association which is a big deal. Andrew, we're glad to have you and on this show we want to talk to you about the inquest which you recently participated in in Windsor. It just wrapped up a week or two ago.

Andrew: That's correct. An inquest is a very intense inquiry into the death of a citizen of the Province of Ontario. The motto of the coroner's office is that we speak for the dead to protect the living, and if you think of it like that, it's quite a fascinating exercise.

Kim: Just so the listeners can understand this a little bit more Andrew, why would a personal injury lawyer be involved in an inquest?

Andrew: As a personal injury lawyer I assist the family, in this case, by definition an inquest is only held when somebody has died, so I would assist the next-of-kin during the course of the inquest asking questions of the many witnesses and suggesting to the jury recommendations that they might want to consider making to help prevent deaths in similar circumstances in the future.

Kim: Is it fair to say then that your role is really as a representative of the family so that they have some participation in the investigation into this death?

Andrew: Yes, the family is able to obtain formal standing from the coroner to participate in the inquest but it is very much like a court proceeding and most people would not be equipped to handle it without legal representation and in this particular case, as is often the case, it's very overwhelming for the family to be confronted with the media because the media follows these things intensively so, in this case, each night I would be on the news as the family spokesperson and the family could sort of maintain their privacy.

Bill: Inquests generally have been in the media a little bit this year in Ontario; that tragic death of Ashley Smith got a lot of news coverage, and so that probably created some awareness in the public at large so your case, as I understand it, was not dissimilar. The family that you acted for had a loved one who died in custody at the Windsor jail.

Andrew: The family that I acted for had had a family member who was in a Provincial detention facility, the Ashley Smith case occurred in a Federal correction institution so there's a bit of a difference there, and he didn't die in jail, he was rushed to hospital and ultimately died in a hospital.

Bill: How long did the inquest last?

Andrew: The inquest lasted one week. There were twenty-two witnesses over the course of four days and the final day in the week dealt with the submissions to the jury and the jury's deliberations and verdict.

Kim: Now on the issue of the jury, Andrew, maybe you can tell the listeners a little bit about what the jury actually does. As I understand it they're not there really to point fault at anyone. Am I right about that?

Andrew: The Coroner's Act specifically provides that they are not allowed to find fault or blame. It's not a finding exercise to find negligence, but they are there to answer certain questions - who the deceased was; when did the deceased die; by what means did the deceased die; and by what means can be homicide, suicide, natural causes, undetermined, there's certain categories that they have to find and, of course, they are able to make recommendations that are not necessarily going to be accepted, but what should be looked at by the Province or by any other group that is receiving them.

Kim: I'm really curious about the recommendations and I guess my concern always is does the Province always look at these recommendations because isn't really the goal of the jury's

recommendations to try to prevent it from happening in the future? Can you tell me a little about your experience in terms of how the Province deals with jury recommendations that come out of an inquest.

Andrew: The example I like to give when I'm telling people this is that it took ten or fifteen separate coroner's juries all recommending that we need to have concrete barriers on the 401 to prevent crossover accidents before they started to be installed in a regular fashion. Years and years ago you would drive for long stretches and there would be no concrete barriers. Now that pretty much, unless it's separated by a large strip of grass, you see them. It takes time but the Province or the authorities who have control over certain areas they can't help but recognize the wisdom of the crowd, so to speak, from common citizens telling them this is what you need to do.

Bill: Andrew you mentioned that in this particular case the inquest was mandatory. Are there other instances where inquests can be requested or sought out where they aren't an automatic entitlement?

Andrew: Yes. This case actually had all the hallmarks of being a mandatory inquest because it was in the context of being in custody, actually, before the death of Jonathan Dew, who is the deceased, all charges had been withdrawn against him so he was technically no longer in custody and the coroner made a point of saying that he was exercising his discretion to conduct this inquest, so just for that point of clarification. So there's discretionary inquest and there's an example of when might the coroner have a discretionary inquest or where there's a matter of considerable concern. The very first inquest that I ever did, close to 20 years ago, involved the crash on the 401 of a transportation bus taking people to Pearson Airport. It wasn't a mandatory inquest but three people died and it had enormous news coverage and it was great concern for everyone so the coroner exercised discretion to have an inquest to see what can we do to prevent something like that from happening again.

Kim: In exercising that discretion I understand that that would be an instigation of either the family or their lawyer. Do you see yourself as a lawyer playing a role in getting inquest cases that cry out for one?

Andrew: Very much. In this case because Jonathon Dew was not technically in custody when he passed away, that was a concern that there would be no inquest because it wasn't mandatory. One of the very first things I did when I was contacted by the family was write the coroner's office and express the concern that this be conducted and I followed up because it's a slow moving process and I was very pleased with the response I got back and the inquest was expedited somewhat as well at our urging.

Bill: One of the things that was interesting to me, Andrew, watching this inquest unfold in Windsor, is that you did have quite a bit of media spotlight after each court day concluded. I think most of our clients are mortified at the thought that they would be assisted inside a court room with the legal issues and the technical proceedings that take place but then potentially be left on their own to fend with the media and news sources who want information. Can you talk a little bit about how you tried to help your client manage that outside the courtroom with the attention this case developed.

Andrew: Yes. First thing for me was I was very aware at all times that it wasn't Andrew Murray's view that was important it was what is important from the perspective of my clients. I would each day ask my clients how are you feeling; what about the evidence that we heard; and I would get a sense from them as to what the concern was and I would be very careful to

enunciate their concern. It was the family's perspective that I wanted to convey and it was important to the family that the public was aware of their perspective.

Kim: Were the press pretty good about letting the family have their privacy and letting you be the spokesperson for them?

Andrew: The press was excellent to work with down in Windsor. They told me point out if the family doesn't want to speak to us directly and you're the spokesperson we won't ask again, we will respect that and if they change their mind you just let us know Andrew. They did not reach that at any time. They gave them space, they gave them privacy, and they did come to me for comment.

Kim: That's fantastic.

Bill: Does your role as an advocate in an inquest end when the hearing concludes or is there more work to be done on following up with recommendations that this jury may have made?

Andrew: I think that the more work to be done often relates to any civil action that might also follow, so in the context of an inquest it might simply be a death by natural causes, someone could have a heart attack and there's an inquest because they had a heart attack in jail for example. If somebody dies and somebody else might be at fault for that death or have contributed to the death, then there can be a civil action so the inquest and the information that you gather can fit hand in glove with the following civil action that will continue or proceed.

Kim: To what extent does the inquest really help you then, Andrew, because you indicated that the jury really can't point the finger at anyone and yet you're talking about some civil lawsuit in the background where you do have to point the finger. To what extent can the inquest really assist with that?

Andrew: In a civil action I get an opportunity to examine a representative of the defendant under oath, which is one person. In this inquest, for example, I got to examine twenty-two different witnesses some of whom were physicians, but many of whom were actual employees of the prison, nurses and guards. It's a remarkable opportunity to hear first-hand what people have to say about the circumstances surrounding the incident. Although I can't directly use that evidence because of the way the Coroner's Act is worded, it's something that once you know that something exists you know where to find it in another context.

Kim: Andrew, what's the difference between a jury in a coroner system and a jury in a civil suit?

Andrew: First thing, I really enjoy working with juries because they're common people who exercise common sense and it's a different flavour whenever you have a jury as opposed to just a single trier of fact. There are six members on a civil jury, there are twelve members on a criminal jury, and there are five members on a coroner's jury. The biggest distinction with a coroner's jury, and you don't see this in any other context, is that the jurors themselves get to ask questions. All the lawyers, there can be many lawyers at some inquests, they'll ask the witnesses questions, go down the line, then the coroner turns to the jury and says, members of the jury, do you have any questions. They usually start out, their very shy on the first day, but as you get rolling they ask remarkably astute questions. And, unlike any other jury system, you start to get an understanding of what is the jury thinking because you can discern that from their questions. It's remarkable and I really enjoy that part of the coroner work that I do, the inquest work that I do.

Kim: Do you think that any of that has to do with the fact that the jury in a coroner's inquest is actually looking to come up with recommendations as opposed to what a jury might be asked to decide in a civil case?

Andrew: What jury's do in a civil case is very, very important. They are determining people's lives and people's entitlements so it's a different type of exercise but I'm not sure how it came about. I don't know historically why it is that they allow coroner's jury members to ask questions but it's kind of fun to see it happen.

Kim: I bet.

Bill: There may be people listening to this podcast who themselves have known a loved one who has died, or an acquaintance who has died in circumstances where maybe an inquest is appropriate. Are there online resources that somebody can go and read more about the coroner's office or the circumstances where an inquest can take place as a next step in their research?

Andrew: In this day and age of computers and googling there's a remarkable amount of information that is available publicly. People should make sure they are looking for the Ontario Coroner's Office because if you just type in coroner you will get things from all over the world probably. Very, very recently the jury verdicts from inquests have been assembled and are now available online through a resource called CanLII which will be familiar to you as lawyers but wouldn't be familiar to the members of the public. If it was a death at a construction site, you could type in some search parameters and find other coroner's jury verdicts and their recommendations just relating to that type of death, or in a homicide, or a suicide, and that would be a very good place for people to start to educate themselves.

Kim: Or they could always give us a call. We would be happy to talk with them as well.

Andrew: We would be happy to talk with them as well, yes.

Bill: That's great. Andrew, thanks for coming on. It's an interesting case, it's an interesting opportunity to profile some of the more uncommon advocacy work that our injury law group does and you did, by all accounts, a great job for your family client and for the firm, so thank you very much.

Andrew: Thank you.

Kim: Thanks Andrew.

[Music] Now, back to Bill and Kim

Bill: One of the segments in the podcast Kim, is profiling lawyers in our group and we're very fortunate here at Lerner's to have a very strong team in our injury law group, and this morning we're with Chris Dawson.

Chris: Morning.

Bill: You're from LaSalle.

Chris: That's right.

Bill: Do you cheat and say you're from Windsor?

Chris: Sometimes I do because there is always questions about where is LaSalle located and of course there's a few of them in Canada. There's LaSalle, Quebec, and LaSalle just outside of Windsor so usually the easier course is to say Windsor.

Bill: Fair enough. How did you decide that you wanted to become a lawyer?

Chris: Well, I'm not really sure I have a direct answer for that. I can tell you that in high school I originally had plans of going into physics, believe it or not, with all sort of different paths that are out there, and as the math and the demands for chemistry and physics went up, I realized I'm not too good with numbers and reasonable alternatives was to go toward law or something that involved language. It was more or less a path that I think I fell into but certainly enjoyed doing the high school law program and had some success there and that's what led me to where I am today I suppose.

Kim: How does that translate to, okay, you decided to become a lawyer and what attracted you to the area of personal injury?

Chris: I just sort of found a path through realizing things that I didn't like to do. It's a little odd and maybe a-typical, but when I went to law school, having had no lawyers in my family and no real true guidance on what it would be like, other than sort of misconceptions you get from law TV shows, I went into law school and took a number of different courses in areas and thought to myself, okay, this is certainly something I don't see myself practicing so we can strike that one off the list. I took another course, found this one is not for me so strike that off the list, and by process of elimination and also having an affinity toward things that did involve the influence of medicine, I think that that's what landed me to where I am today.

Bill: One of the things about the Lerner's website is that the information that is summarized about each of the lawyers in our group often is similar. What would be something that a listener could hear from this podcast that they're never going to learn about you from reading your website bio?

Chris: One thing that comes to mind is I'm a big fan of trying different foods and exotic cuisines. There are shows on TV that deal with exotic foods, Bizarre Foods America I think is the name of one, and try sort of weird things that are off the map, not something you would find on a menu in your typical restaurant and for me, I like to be a little bit adventurous and try new things. I can tell you that when I went to South Africa I was not afraid of trying many of the different animals that found themselves on the menu in some of the restaurants.

Kim: Okay, now you've sparked my interest in that so tell me some of the weird things that you've actually ate.

Chris: To go back to the South Africa example, at one place they were offering, I think, four sort of gaming meats. One was koodo, which is an indigenous animal, and I would compare that to say, beef sort of taste and texture; springbok, which maybe more people are familiar with. I think the South African rugby team is named after the local animal, the springbok, and that is sort of like venison, it was quite nice and I would love to try that again. And then there was ostrich.

Bill: When are you going to get to like, the snake part?

Chris: We'll save that for the end.

[Laughter]

Chris: Ostrich, which was a little more run of the mill, and then lastly, crocodile kebabs. I thought that was a little odd but when I tried it, it was my favourite thing on the menu. The crocodile kebab was very juicy and tasty and I actually think about it all the time.

Kim: Are you a chef yourself?

Chris: I try to dabble here and there but by all means I would not say I'm a chef. I just put forth a valiant effort.

Bill: All lawyers who do this kind of work have a niche or an area of interest. Some cases are particularly exciting to work on. Do you see yourself in that vein, do you have kinds of cases that you are especially interested in?

Chris: Yeah, certainly. I think that any case that involves children holds a special place in my heart. My sister-in-law is a paediatrician and I have two young children of my own and I've noticed that whenever we have clients who have a claim involving a young child that that's something I really pick up on and can feel a strong connection to them. Not that I don't feel that way with many of my clients, but it reserves a special place for me. That's something that I think in the future I hope to really advance in and gain a reputation on.

Kim: Those are really difficult cases, Chris, and I agree with you, they take a special type of person and a special type of lawyer and I think it's fantastic that that's something you're interested in. I know a lot of people would feel very comfortable meeting with you and having you take their case on.

Chris: Well thank you. That's very kind of you. I hope that down the road that that's something I do develop more and more of.

Bill: If I asked you to describe what you think your biggest strength is as a lawyer, what would you say?

Chris: Probably my rapport with clients. For the most part, once we get to know each other we seem to connect on some form or fashion (Bill interjects: crocodile meat perhaps), could be the crocodile meat, yeah, I think that when I get to know a client we usually hit it off and get along fairly well and they tend to confide in me. We build a relationship from the get go and feel comfort I suppose, maybe I have a little more patience than some people and I'm happy to always be an ear when an ear is needed.

Bill: Favourite restaurant in Windsor?

Chris: Well, I do like Bubi's which is a university hang out and that's because there's a famous Bubi's dip that is well known to people in Windsor. It's a garlic dip and I often crave that so that comes to mind immediately. Probably not one of the sort of higher end and famous ones that are out there, but I definitely love it.

Kim: Chris, Essex County, I'm assuming, is the county where LaSalle is located. Do you ever get back to Essex County at all Chris?

Chris: I do actually. I've been trying to make a trip down at least once a month and most of my family still lives in Essex County. I have a few family members that are in London now but, you know, that's where my family is. I should admit that I was born in London and we did live in London for a while but now most of my family is there, my in-laws are there, and I go down for a number of different events throughout the year, whether it's something that's community or

charity related or if it's to meet with clients. I have a number of clients that I act for who live in Essex County and I'm always willing to make the drive down. I'll go down and see if there is any event that may be going on in Essex County, perhaps there's a community event that I can attend. Certainly I do in-home visitations and consultations in the hospitals in Windsor and Essex as well.

Bill: That's great. Chris, it's a pleasure to have you on. People who want to read more about you can find you online at lernerinjurylaw.ca. We'll be right back.

[Music – Now, back to Bill and Kim]

Bill: We have a question this week from Ryan in Warton who says what is an income replacement benefit and how does it work? Kim, we see this a lot. New clients are given a package of information by their insurance company, there are many, many pieces of paper in it, there's a lot of information in there about all kinds of benefits, trying to sort them all out is difficult.

Kim: You know Bill, you're right. It really is difficult and I find that often times clients have no idea what their own auto policy provides and as you know, an income replacement benefit is one of the things the standard automobile accident benefits policy provides to individuals and they are absolutely entitled to an income replacement benefit from their insurer, their own insurer, if they have an inability to work as a result of the injury sustained in the accident. Now the problem with the income replacement benefit, at least the standard coverage or standard benefit, is that it only pays \$400.00, up to a maximum of \$400.00 a week, so they are in most cases entitled to the income replacement benefit and hopefully if they don't have optional income replacement benefit coverage, they have coverage through either their insurer at work, short term disability, long term disability, that type of thing.

Bill: Well Ryan must be, it must be an important issue for Ryan because he also says, does the income replacement benefit pay in addition to his work benefits?

Kim: Well, and that's a little more difficult question and in most cases, most cases and for most people I'm going to say that it does pay in addition. It's a complicated calculation and it's one where you really want to talk to a personal injury lawyer and get some advice on are you entitled to both the income replacement benefit and the short term disability benefit and if not, how does the offset work and what is the exact calculation.

Bill: So Ryan, I think the gist of what you need to take away is that you can't get more from the automobile insurer than \$400 a week and if you have benefits from work or from a private policy, those benefits will typically pay first, and if there is some shortfall using the calculation that Kim just described, then the auto policy benefits may pay in addition to that. But Kim, do you agree that one of the really important things for people to be doing is when you get your renewal notice from your automobile insurer, stop and read it, and look at it and think about whether the coverage that it provides to you for wage replacement will actually be sufficient in your circumstances.

Kim: I couldn't agree with you more and I feel so bad when I talk to people on the phone or when I meet with people and I ask them what coverages do you have through your own auto policy and most people have no idea. Unfortunately, I think the focus that most people have when they're purchasing auto insurance is how much is it going to cost me and they don't (Bill interjects: the premium is all) the premium, yeah, and they don't think about what's the coverage going to be in case I'm hurt in an accident and, let's face it Bill, we never think we're going to be in an accident and we try not, I guess, to be in accidents, so it doesn't cross our minds but it

really should and we really need to ask our broker what coverages do I have. Talk to the broker or the agent about what your income is, what benefits you have available through your employment and really be prepared in the event that something horrible happens like an accident that causes you to have an inability to do your job.

Bill: Well Ryan, that was a good question, thanks for sending it in. All our listeners are invited to send us questions at podcast@lerner.ca. We've got time for one more. Sharon in Tilbury emailed this question. If I was hurt in an accident involving another vehicle and I wasn't wearing my seatbelt do I still have a case?

Kim: The short answer is absolutely you have a case and you're entitled to your accident benefits through your own insurer, absolutely. You also may have a claim against the at fault motorist. Bill, as you know the seat belt issue is often a defence that is raised by the insurer for the defendants but it doesn't, in most cases, mean that there will be no recovery.

Bill: Our court of appeal gives some direction on all that Sharon, and the worst case scenario is there is a discount of about 25% in circumstances where not wearing a seat belt would have made a significant difference to the physical injuries that you sustained. So, while it isn't quite this simple, somebody who goes head first through a windshield and suffers a head injury, will have a greater discount than a person who has a broken arm as a result of a collision where both people weren't wearing a seat belt at the time of the accident.

Kim: And having said that though, Sharon, make sure you wear your seatbelt.

Bill: That's right. Good question. Send them all to us, podcast@lerner.ca.

[Music] The information podcast series is brought to you by Lerner's injury law group, with your hosts Bill Simpson and Nigel Gilby. If you would like to reach us for follow up, please click on the contact Lerner's button on the podcast main page. Thank you for listening to this podcast episode.