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Woman awarded \$3.2 million for injuries in crash

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Times Colonist staff

A Nanaimo woman rendered a quadriplegic in an October 2001 car crash near Sayward has been awarded \$3.2 million plus interest in B.C. Supreme Court.

But the amount coming to Elaine Jean Mitchell, 50, could likely end up closer to \$4 million, said her Vancouver lawyer, Brian Webster.

"It was a terrible, terrible, terrible accident," said Webster of the Oct. 14, 2001, crash.

Mitchell and her family were on their way home to Nanaimo after attending a wedding in Alert Bay.

A health-care worker was at the wheel, driving south on the Island Highway near Sayward. The worker lost control of the vehicle, which hit the ditch and rolled.

The crash killed Mitchell's quadriplegic father and left Mitchell herself a quadriplegic.

"She's paralysed on all four limbs," said Webster. "She has some minimal use of her two arms although she can only do things like use splints to assist with gripping."

"She can feed herself but she is not capable of personal care. She needs 24-hour help."

Mitchell sued health-care worker Renee Michelle Turok and her employer, We Care Health Services Inc., a franchisee of B.J. Health Services Ltd. The defendants admitted liability and a trial held in February dealt only with what should be paid as compensation.

Justice Stephen Kelleher's judgment on those costs, released Thursday, "is very good news and a substantial judgment but

when you have a tragedy like this, it's never enough," said Webster.

Mitchell's response to the judgment was quiet, said her lawyer.

"She was so worried she wouldn't have enough money to look after herself ... that's all she's worried about, is having enough money to care for her basic needs."

The costs will be covered by the health services' insurer and carriers of the vehicle insurance: ICBC, ING and Royal Insurance.

Kelleher ruled Mitchell is entitled to \$2.2 million to cover her future care. The remainder of the costs include the maximum allowed for pain and suffering and a trust fund for Mitchell's family.

The accident happened three months after Mitchell separated from her husband and moved with her four sons into the

basement of her father's home on the Nanaimo reserve. At the time of the crash, Mitchell was working full-time at Kwumut Lelum Child and Family Services Agency in Chemainus, earning \$26,000 a year.

The specially-equipped van Turok was driving was owned by Mitchell's father, Willis Good, who was confined to a wheelchair.

Three of Mitchell's sons and Good's caregiver were in the van that day, along with Turok, Mitchell and Good.

Good died while Turok and Mitchell's sons suffered minor injuries. Mitchell suffered a broken neck and was taken to hospital in Vancouver. In December, she was moved to a rehabilitation facility where she remained until August 2002. She reconciled with her husband briefly and the family moved to a handicap-accessible

townhouse in Nanaimo. He moved out in 2003.

One of the issues at trial was the life expectancy of Mitchell, said the Vancouver lawyer representing Turok. The ruling is based on Mitchell living for another 15 years, based on health issues of obesity, diabetes and a history of smoking.

"If you're a quadriplegic like Jean Mitchell, it takes a fair amount of care. The second (issue) was what type of care is she entitled to," said Dowler on Thursday.

Mitchell continues to require counselling to help her cope with the loss of her father and her own mobility, said Webster.

"She is trying as best she can from a wheelchair or bed to be head of the family. She's a very courageous, very smart lady."