

REASONS FOR DECISION

MANDHANE J.

INTRODUCTION

[1] The Applicant/Father, Amrit Pal Singh Ahluwalia, and the Respondent/Mother, Kuldeep Kaur Ahluwalia, were married on November 28, 1999, and separated on July 2, 2016. On the date of separation, they were 48 years old and 47 years old, respectively. The parties have two children: K.A. and P.A. (collectively, the “Children”). The Children have been estranged from the Father since 2017.

[2] The parties appeared before me for an 11-day trial to determine four issues: property equalization, child support, spousal support, and the Mother’s claim for damages in relation to the Father’s alleged abuse during the marriage.

[3] The family law issues were complicated because the parties could not agree on their respective incomes for family law purposes (“Income”), the value of the Father’s business, KT Trucking Inc. (the “Business”), or their entitlement to post-separation deductions. Based on my factual findings below, the Father owes \$47,188 in retroactive spousal support, and \$20,788 in retroactive child support. The property that must be equalized includes the proceeds of sale from the matrimonial home (\$326,680) and the Business, which I value at \$16,950.

[4] On the most contentious issue, the Mother’s claim for damages, I am prepared to award \$150,000 in compensatory, aggregated, and punitive damages for the tort of family violence. I recognize that making such a significant damage award is well-outside the normal boundaries of family law. In the typical marriage, characterized by economic interdependence and mutual support, the family law statutory framework will be a complete code that allows for the fair, predictable, and efficient resolution of the parties’ financial issues post-separation.

[5] However, the marriage before me was not typical: it was characterized by the Father’s abuse, and a sixteen-year pattern of coercion and control. It was not just “unhappy” or “dysfunctional”; it was violent. The family violence the Mother endured at the hands of the Father is not compensated through an award of spousal support. Indeed, the [Divorce Act, R.S.C., 1985, c. 3 \(2nd Supp.\)](#) specifically prohibits me from considering “misconduct” when making a spousal support award: s.15.2(5). On the rare and unusual facts before me, the Mother is entitled to a

remedy in tort that properly accounts for the extreme breach of trust occasioned by the Father's violence, and that brings some degree of personal accountability to his conduct.

[6] After accounting for the relevant post-separation deductions, and the damage award, the Mother is entitled to the entire proceeds of sale from the matrimonial home, and the Father shall pay her an additional \$24,680 in full satisfaction of the family and civil claims: see *Schedule A, Table 4: Final Accounting*. The Father shall pay ongoing child support and indefinite spousal support at the high-end based on his Income of \$86,136 per year and the Mother's imputed Income of \$30,000.

FACTUAL OVERVIEW

[7] The parties met in Chandigarh, Punjab/Haryana, India. They were introduced by their parents and married in 1999 after a short courtship. After marriage, the parties lived in a joint family home with the Father's parents, and the Father's older brother and his family.

[8] From the beginning, the marriage was traditional, with the parties' duties and responsibilities defined along gender lines. The Mother was responsible for caregiving and the Father was responsible for earning money outside the home. In the early years, apart from a honeymoon in Shimla and trip to Europe, the parties were largely focused on starting a family. The eldest child was born 18 months after marriage.

[9] Sometime in 2000, the Father suggested that the family immigrate to Canada to pursue better economic opportunities. They immigrated based on the "points system." Both parties are highly educated. The Father had trained as a lawyer though "he didn't practice law seriously", while the Mother had various degrees and certifications from India and, prior to marriage, was a teacher, private tutor, and local talk show host.

[10] The Father arrived in Canada in September 2001, and the Mother and eldest child followed in March 2002. The first few months were hard. The family lived in a dark basement, and they had very few social or financial supports. The parties quickly realized that having their foreign credentials accredited would require time and money (and they had neither). Out of necessity, both parties started working full-time in a plastics factory in Etobicoke. They would alternate day and night shifts so that one of them could care for their child.

[11] The Mother eventually left the factory job, first working in the food court at Woodbine Racetrack, and then at a banquet hall. She worked days, while the Father worked nights. The paternal father-in-law ("Father-in-law") came to visit in

2003 to help with childcare. That same year, the Mother had a miscarriage in the fifth month of pregnancy.

[12] The parties eventually welcomed their youngest child in 2004 and the paternal in-laws came for a three-month visit. That year, the Father became employed as a tractor-trailer (“truck”) driver.

[13] The parties bought their first home in Brampton in 2005. They became more involved in the local Punjabi and South Asian diaspora communities, often socializing and spending evenings and weekends with family friends. The Mother volunteered as on-air talent for Punjabi community television and radio programs. The whole family travelled to India in 2006 to attend weddings and visit family.

[14] The Father became a truck owner-operator in 2008 or 2009 and there was a “huge increase” in his income after that. Still, with two growing children to feed, finances were tight. After hearing that there were better economic opportunities in Alberta, the family moved to Edmonton between 2012 to 2014. While there, the Father was employed as a driver with Canadian National Trucking Lines (“CNTL”), while the Mother worked part-time at a local BMO branch.

[15] While in Edmonton, in January 2013, the Mother was diagnosed with Major Depressive Disorder and Moderate Anxious Distress. Sometime in 2013, the Father threatened the Mother with divorce, but did not follow through with it because the Father-in-law visited Edmonton to help smooth things over between the parties.

[16] The Father moved back to Brampton in January 2014 and bought the matrimonial home. Since February 2014, the Father has owned his own truck and driven exclusively for CNTL.

[17] The rest of the family moved back to Brampton in July 2015. For the remainder of 2015, the parties stopped communicating directly and would relay messages through the Children. The Father travelled to India in 2015 for two months, and the Mother travelled to India in 2016 for a few weeks.

[18] The parties permanently separated in July 2016 after the Father left the matrimonial home. After separation, the Mother and Children remained in the home while the Father continued to pay the maintenance expenses (mortgage, taxes, *etc.*). The eldest child essentially refused to see the Father post-separation, while the youngest child only saw the Father a few times before refusing to see him as well.

[19] On September 7, 2021, the Father was charged with the two counts of assault against the Mother, and one count of uttering threats to cause death. Both

charges relate to events during the marriage. The criminal charges are outstanding before the courts and did not factor into my analysis.

THE PROCEEDINGS

[20] The Father commenced this Application on August 24, 2016, seeking joint parental decision-making, weekend parenting time, sale of the matrimonial home, and property equalization.

[21] The Mother, who was represented by counsel at the time, filed her Answer on October 19, 2016. She sought sole decision-making authority, primary residency, child support, spousal support, and property equalization. The Mother claimed that the Father was physically and mentally abusive throughout the marriage. She recounted specific incidents of physical violence in 2000, 2008, and 2013, and an overall pattern of emotional abuse and financial control.

[22] In his Reply on October 26, 2016, the Father vehemently denied any physical abuse; he said that the parties had “normal” disagreements and verbal arguments. He said that the Mother was not entitled to spousal support because she was intentionally underemployed.

[23] The parties and their counsel appeared before Van Melle J. for a case conference on November 28, 2016. On consent, and on a temporary basis, they agreed to joint parental decision-making; weekend parenting time; and sale of the matrimonial home after July 7, 2017. The Father agreed to pay for maintenance of the home pending its sale.

[24] The home was sold on November 29, 2017, for a total of \$711,457, with the proceeds being held in trust by their real estate lawyer. The Mother and Children moved into the basement apartment after the sale of the home and the Mother began paying rent to the new owners. Pursuant to the order of Lemon J. dated April 23, 2018, the parties agreed on consent that the Father would start paying temporary child support for the Children in the amount of \$1,113 based on an annual income of \$73,256.

[25] On September 13, 2019, the Mother’s began representing herself.

[26] On March 17, 2021, the parties appeared before Price J. for a joint settlement/trial management conference. The Mother was represented by an agent. At the conference, the Court granted the Mother leave to deliver an Amended Answer.

[27] In her Amended Answer dated March 17, 2021, the Mother added a new claim for “general, exemplary and punitive damages for the physical and mental abuse suffered by the Respondent at the hands of the Applicant.” The Mother

argued that the three incidents of physical violence, coupled with the Father's coercive and controlling behaviour, caused mental and physical harms for which she should be compensated in damages. She essentially pled the tort of family violence; she did not plead the specific torts of assault, battery, or ion of emotional distress.

[28] In his Amended Reply dated May 14, 2021, the Father again vehemently denied the Mother's family violence allegations. In support of his position, he noted that he was the one who left the relationship, and that the Mother only amended her Answer to properly plead the claim some five years post-separation. He wonders why she did not complain to the police earlier. While the Father admits that the parties separated over financial issues, he says they had joint accounts and he was never controlling.

[29] In his Trial Scheduling Endorsement Form, Price J. indicated that both parties intended to call witnesses to testify to the abuse allegations. At this point in the proceedings, the parenting issues were no longer seriously in dispute.

[30] At the outset of trial, as a preliminary matter, the Father argued that the Mother's tort claim was statute barred. I ruled that it was not because it was based on an alleged assault while the parties were in an "intimate relationship" and/or in a relationship of dependency. According to [s. 16\(1\)\(h.2\) of the *Limitations Act, 2002, S.O. 2002, c. 24, Sched. B*](#), no limitation period applies in such circumstances:

16(1) There is no limitation period in respect of,

(h.2) a proceeding based on an assault if, at the time of the assault, the person with the claim was a minor or any of the following applied with respect to the relationship between the person with the claim and the person who committed the assault:

(i) they had an intimate relationship,

(ii) the person with the claim was financially, emotionally, physically or otherwise dependent on the other person.

[31] As the trial progressed, it became clear that the parties had fundamentally different views on the proper framing of the tortious conduct at issue. For example, throughout his examinations and submissions, it was clear that the Father's position was that the tortious conduct was limited to the three incidents of battery, and specific incidents of emotional abuse (*i.e.*, threats, and the periods of alleged silent treatment).

[32] In contrast, the Mother's evidence and submissions made it clear that her view was that the tortious conduct was the family violence throughout the relationship, and that the specific incidents outlined in her pleadings were mere examples of a larger pattern of coercive and controlling behaviour. Given that the

Mother was self-represented and had the burden of proof on the tort claim, by way of endorsement dated January 31, 2022, I directed the parties to the recent case of *Schuetze v. Pyper*, [2021 BCSC 2209](#) which dealt with the tort of spousal battery.

CLOSING SUBMISSIONS

[33] At the conclusion of trial, by way of an endorsement dated February 9, 2022, I asked for written closing submissions that would answer the following questions (amongst others):

What is the specific tortious conduct at issue?

- Is the tortious conduct limited to claims for assault, battery, or intentional infliction of emotional distress?
- Is there a tort of family violence in Canadian law? If not, should such a tort be recognized by the Court?

What evidence do you rely on in support of your position on liability?

- How should I treat the medical and counselling records?
- How should I treat the evidence of the lay witnesses?

If liability is established, what quantum of damages should be awarded?

- What factors are relevant to the award of damages?

What are the factors relevant to my determination of spousal support?

- Are the allegations of family violence relevant to the determination of support?

[34] In her written closing submissions, the Mother stated that her position is that the tortious conduct is the family violence that she experienced throughout the marriage, and that damages should be assessed at \$100,000 based on the overall pattern of violent and controlling conduct. She says that recognition of the tort of family violence is necessary given the emphasis on “family violence” in the [Divorce Act](#).

[35] I was not surprised that the Mother maintained this view in her written closings. Throughout the trial, there was no indication that the Mother misunderstood the law or unintentionally pleaded the tort of family violence. Indeed, in her written closings she was careful to maintain her claim based on family violence, pointing to the incidents of physical assault, mental abuse, threats, and financial abuse as a pattern of coercion and control. I cannot dismiss the Mother’s novel claim simply because she was self-represented; at the same time, she must be held to the same standard as a party represented at trial.

[36] In his written closings, the Father asks me to dismiss the tort claim. He says that allowing the Mother’s tort claim to proceed in a family law case raises

concerns about the proceedings being “weaponized” and negatively affecting the parties’ ability to co-parent. If I am willing to entertain the tort claim, the Father resists framing the tort as broadly as “family violence.” He says that the Mother must prove the three alleged incidents of battery as outlined in her Amended Answer on a balance of probabilities. He says that it would be speculative to make findings about other incidents of violence. In relation to the alleged emotional abuse, the Father says that the Mother must prove the tort of intentional infliction of mental suffering and that causation must be interpreted strictly. He says that the family violence is irrelevant to spousal support.

ISSUES

[37] The four issues that I must determine are as follows:

1. Should the Father be liable in damages for family violence?
2. How much should the Father pay in child support?
3. How much should the Father pay in spousal support?
4. What is the final equalization payment owing?

SHOULD THE FATHER BE LIABLE IN DAMAGES FOR FAMILY VIOLENCE?

[38] To arrive at my ultimate answer to this question, I must consider the following sub-issues:

1. Is the Mother’s tort claim properly considered as part of the family law proceedings?
2. Is there a tort of family violence?
3. Is the Father liable in damages for his conduct during the marriage?
4. If so, what damages should flow?

[39] Based on my analysis below, I find that the Father shall pay the Mother \$150,000 in damages for family violence during the marriage.

Is the Mother’s tort claim properly considered as part of the family law proceedings?

[40] In his closing submissions, the Father argued that it would be improper to consider the tort claim as part of the family law proceedings. He says that there are real concerns that such claims will derail the trial process and make it more difficult for parties to co-parent into the future: *Frame v. Smith*, [1987 CanLII 74 \(SCC\)](#), [1987] 2 SCR 99, at para. [47](#). At the outset, I note that the Father’s concern is speculative on the facts before me. The Children are estranged from the Father and parenting

was not in issue at trial. Also, while the Mother initially proposed calling the eldest Child as a witness, after I expressed concerns about the necessity and reliability of such evidence, the Mother decided against it.

[41] That said, in general, I agree with the Father that the [Divorce Act](#) creates a complete statutory scheme when it comes to resolving financial issues post-separation, and that Court must be careful not to arm family law litigants to overly complicate the litigation through speculative and spurious tort claims.

[42] However, given the recent reforms to the [Divorce Act](#), the Father's concern is less persuasive because "family violence" is already relevant to the issue of parenting. For example, here, the Mother pleaded the factual substance of the tort claim in her original 2016 Answer such that the Father was well-aware that her allegations of abuse would be live issues in the family law matter, regardless of the claim for damages: *Saadati v. Moorhead*, [2017 SCC 28](#), [2017] 1 S.C.R. 543, at paras. 9-12; *Odhavji Estate v. Woodhouse*, [2003 SCC 69](#), [2003] 3 S.C.R. 263, at para. 41. Indeed, the Father responded to the allegations in his original Reply back in 2016.

[43] With 2021 reforms to the [Divorce Act](#), Parliament has explicitly recognized the devastating, life-long impact of family violence on children and families: *S.S. v. R.S.*, [2021 ONSC 2137](#), at paras. 28, 47; *J.K. v. R.K.*, [2021 ONSC 1136](#), at paras. 34-39. Moreover, the [Divorce Act](#) defines "family violence" expansively to include conduct that goes beyond physical assaults:

family violence means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or for that of another person — and in the case of a child, the direct or indirect exposure to such conduct — and includes

- (a) physical abuse, including forced confinement but excluding the use of reasonable force to protect themselves or another person;
- (b) sexual abuse;
- (c) threats to kill or cause bodily harm to any person;
- (d) harassment, including stalking;
- (e) the failure to provide the necessities of life;
- (f) psychological abuse;
- (g) financial abuse;
- (h) threats to kill or harm an animal or damage property; and
- (i) the killing or harming of an animal or the damaging of property.

[44] Yet, despite this statutory recognition within the [Divorce Act](#), the legislation does not create a complete statutory scheme to address all the legal issues that arise in a situation of alleged family violence. At its heart, spousal support is compensatory rather than fault driven. As such, spousal support awards are not meant to censure particularly egregious conduct during the family relationship that calls out for aggravated or punitive damages: see, *Leskun v. Leskun*, [2006] 1 S.C.R. 920, [2006 SCC 25](#), at paras. [15-24](#).

[45] Indeed, s.15.2 of the [Divorce Act](#) dictates the factors that I must consider when making a spousal support award, and “family violence” is not one of them. The legislation specifically dictates that I must not take into account “misconduct of any spouse in relation to the marriage” when making a support order: s. 15.2(5). The objects of spousal support are narrowly focused on compensation and self-sufficiency in the context of a relationship of economic interdependence and mutual aid: s.15.2(6). On this basis, for example, I refused to allow either party to adduce evidence of alleged extra-marital affairs in the matter before me. To the extent that abuse may be relevant to support, given its compensatory nature, the plaintiff establish that the harms that flowed from the abuse are directly relevant to the *economic* fallout of the marriage: *Leskum*.

[46] The [Divorce Act](#) does not provide a victim/survivor (“survivor”) with a direct avenue to obtain reparations for harms that flow directly from family violence and that go well-beyond the economic fallout of the marriage: see *Leitch v. Novac*, [2020 ONCA 257](#), 150 O.R. (3d) 5. In unusual cases like this one, where there is a long-term pattern of violence, coercion, and control, only an award in tort can properly compensate for the true harms and financial barriers associated with family violence. The no-fault nature of family law must give way where there are serious allegations of family violence that create independent, and actionable harms that cannot be compensated through an award of spousal support: “Intimate relationships and spousal status are not a shield from tort liability. It would be wrong to suggest that the law should allow intimate partners to commit actionable wrongs with impunity,” *G. (M.H.) v. B. (R.J.)*, [2021 ONSC 4308](#) at paras. [36-42](#).

[47] Allowing a family law litigant to pursue damages for family violence is a matter of access to justice. It is unrealistic to expect a survivor to file both family and civil claims to receive different forms of financial relief after the end of a violent relationship. That said, I agree with McLeod J. in *G. (M.H.)* that it is incumbent on case management judges faced with tort claims in a family law context to ensure that the claim is genuine at the pleadings stage, and to find efficiencies, reduce duplication, and make a presumptive order for trial together. Here, all those steps were taken by Price J. in March 2021 at the joint settlement/trial management conference.

Is there a tort of family violence?

[48] Having considered the parties' written submission on this point, I am prepared to recognize a common law tort of family violence. I agree with the Mother that to properly understand her claims for compensatory and aggravated damages, the relevant factual context is the entire 16 year pattern of emotional, mental, and psychological abuse, coupled with an inherent breach of trust.

The Nature of tort law

[49] A tort arises when there has been a breach of a recognized legal duty, and where the appropriate remedy is a claim for damages: CED 4th (online), Torts, 1.2 at para. 3, 5. Remedies depend upon the substance of the right, not on whether they can be fitted into a particular framework: CED, 1.3 at para. 7. That said, as a practical matter, the specific cause of action in tort relied on by the plaintiff will be relevant to determining the facts that must be pleaded, the applicable limitation period, the type of damage that must be established, and the relief that can be claimed: CED, 1.3 at para. 8. The different causes of action in tort are not mutually exclusive such that an act that causes injury may be actionable based on more than one cause of action: *M.(K.) v. M.(H.)*, [1992 CanLII 31 \(SCC\)](#), [1992] 3 S.C.R. 6; CED, 1.3 at para. 9.

[50] While trial judges must be cautious about developing new foundations for liability, there is scope to do so where the interests are worthy of protection and the development is necessary to stay abreast of social change: *Merrifield v. Canada (Attorney General)*, [2019 ONCA 205](#); CED, 1.4, para. 10. New causes of action in tort can be created through re-interpretation of precedent, extension of an existing cause of action, or the recognition of a new interest that warrants protection under the civil law: CED, 1.4, para. 11.

[51] For example, there is emerging case law from several U.S. states recognizing a tort framed along these lines of "battered women's syndrome": see Camille Carey, *Domestic Violence Torts: Righting a Civil Wrong*, [2014] 62 Kansas L.R. 695. While the tort of "battered women's syndrome" certainly overlaps with existing torts, such as assault, battery, intentional infliction of emotional distress, forcible confinement, breach of fiduciary duty and others, it is fundamentally different in terms of the assessment of both liability, causation, and damages.

Elements of the tort of family violence

[52] To define the modes of liability underlying the new tort of family violence, the proper starting point is the definition of "family violence" found in [s. 2](#) of the [Divorce Act](#). Based on this statutory definition, to establish liability on a civil standard, the plaintiff must establish:

Conduct by a family member towards the plaintiff, within the context of a family relationship, that:

1. is violent or threatening, *or*
2. constitutes a pattern of coercive and controlling behaviour, *or*
3. causes the plaintiff to fear for their own safety or that of another person.

[53] Under the first mode of liability, the plaintiff must establish that the defendant/family member (“family member”) intended to engage in conduct that was violent or threatening (*i.e.*, consistent with the well-recognized intentional torts of assault and battery). Under the second mode of liability, the plaintiff must establish that the family member engaged in behaviour that was calculated to be coercive and controlling to the plaintiff. Under the third mode of liability, the plaintiff must establish that the family member engaged in conduct that they would know with substantial certainty would cause the plaintiff’s subjective fear (*i.e.*, consistent with battery, and/or intentional infliction of emotional distress).

[54] While the tort of family violence will overlap with existing torts, there are unique elements that justify recognition of a unique cause of action. I agree with the Mother that the existing torts do not fully capture the cumulative harm associated with the *pattern* of coercion and control that lays at the heart of family violence cases and which creates the conditions of fear and helplessness. These patterns can be cyclical and subtle, and often go beyond assault and battery to include complicated and prolonged psychological and financial abuse. These uniquely harmful aspects of family violence are not adequately captured in the existing torts. In general, the existing torts are focused on specific, harmful *incidents*, while the proposed tort of family violence is focused on long-term, harmful *patterns* of conduct that are designed to control or terrorize. For example, the tort of intentional infliction of emotional distress requires showing that a specific interaction or behaviour was “flagrant and outrageous” and resulted in injury. In the context of damage assessment for family violence, it is the pattern of violence that must be compensated, not the individual incidents.

[55] That all being said, to establish “family violence,” the plaintiff will have to plead and prove on a balance of probabilities that a family member engaged in a pattern of conduct that included more than one incident of physical abuse, forcible confinement, sexual abuse, threats, harassment, stalking, failure to provide the necessities of life, psychological abuse, financial abuse, or killing or harming an animal or property. It will be insufficient to point to an unhappy or dysfunctional relationship as a basis for liability in tort.

[56] The focus must be on the family member's specific conduct, which must be particularized using specific examples. It will be insufficient and unfair for the plaintiff to simply rely on the pattern of conduct without pointing to any specific incidents. From a fairness perspective, the tort claim cannot be a series of bald assertions. The defendant must know the case to meet. Therefore, the trial judge must be satisfied that the plaintiff's pleadings are sufficiently detailed to allow the defendant to respond.

[57] Once liability, is proven, the nature of the family violence—circumstances, extent, duration, and specific harm—will all be factors relevant to assessing damages. Aggravated damages may be awarded for betrayal of trust, breach of fiduciary duty, and relevant post-incident conduct. Punitive damage awards will generally be appropriate given the social harm associated with family violence.

Rationale for recognizing the tort of family violence

[58] In my view, this is one of those rare circumstances where the common law should recognize a new foundation for liability for family violence. I come to this conclusion based on the existing case law related to spousal battery, explicit recognition of the harms associated with "family violence" in the [Divorce Act](#), recent provincial legislation that removes other legal barriers facing survivors leaving violent relationships, developments in the American caselaw, and Canada's international law obligations related to women's equality: *Jones v. Tsige*, [2012 ONCA 32](#), 108 O.R. (3d) 241.

[59] First and foremost, I am concerned that casting the nature of the tortious conduct too narrowly risks distorting the fact-finding process in terms of properly assessing liability, damages, and credibility. In terms of liability and damages, a narrow focus on the intentional torts of battery or assault committed on specific days or at specific times will obscure the lived reality of family violence. In family relationships, the conditions of terror, fear, coercion, and control are often created through years of psychological abuse punctuated with relatively few acts of serious physical violence. In practice, a perpetrator need only administer one hard beating at the beginning of a marriage to create an imminent threat of daily violence. Focusing too narrowly on specific incidents risks minimizing the tortious conduct, which is the overall pattern of violent and coercive behavior combined with a breach of trust. It follows then that a surgical focus on the mechanical elements of the physical assaults, for example, will not be adequate to understand and appreciate the true nature of the harmful conduct.

[60] The problems associated with trying to frame cases involving long-term family violence into the rubric of existing intentional torts is most clearly demonstrated through the relative paucity of damage awards in spousal assault cases: see Laura Buckingham, *Striking Back: The Tort Action for Spousal Violence*,

[2007] 23 Can. J. Fam. L. 273 at 304-305. The most recent example in Ontario is *Montgomery*, at paras. 33-38, where Healey J. awarded the mother \$75,000 in damages for the “inter-spousal tort of assault.” The case involved a fourteen-year marriage characterized by physical and emotional abuse. In that case, the judge found that the most significant aggravating factor was the flagrant breach of trust, but that judges could also consider the nature of the overall oppression and any aggravating post-incident conduct. The Mother did not make a claim for spousal support in that case.

[61] Most of the cases that pre-date *Montgomery* are out-of-step with the evolving social understanding about the true harms associated with family violence and therefore even less helpful on the issue of damages. The nascent cases were generally preoccupied with quantification of the physical harms (*i.e.* bruises, fractures, lacerations, disabilities, etc.): see *Costantini v. Costantini*, [2013 ONSC 1626](#), 28 R.F.L. (7th) 356; *Dekany v. Parenteau*, [2014 ONSC 49](#); *Holden v. Gagne*, [2013 ONSC 1423](#); *McLean v. Danicic*, [2009 CanLII 28892 \(ON SC\)](#), 95 O.R. (3d) 570 (S.C.); *Rezel v. Rezel* (2007), [2007 CanLII 12716 \(ON SC\)](#), 37 R.F.L. (6th) 445 (S.C.); *Marchese v. Marchese*, [1999] O.J. No. 5342 (S.C.); *Johal v. Johal*, [1996] O.J. No. 419 (Gen. Div.). With limited exception, the punitive damage awards are low or nonexistent: see *Shaw v. Shaw*, [2012 ONSC 590](#), 9 R.F.L. (7th) 359; *Van Dusen v. Van Dusen*, [2010 ONSC 220](#); *Valenti v. Valenti* (1996), [1996 CanLII 8082 \(ON SC\)](#), 21 R.F.L. (4th) 246 (Ont. Gen. Div.); *Surgeoner v. Surgeoner*, [1993] O.J. No. 2940 (Gen. Div.).

[62] Outside of Ontario, courts have started to recognize the need to award higher damages for family violence. In *Schuetze v. Pyper*, a B.C. trial judge awarded \$795,029 for a single incident of physical violence in an intimate partner relationship. However, since the claim of battery related to a single incident of violence, she found that the defendant’s previous pattern of violence and controlling behaviour was only relevant to her assessment of the parties’ relative credibility. The trial judge calculated damages based on the plaintiff’s physical and emotional injuries, diminished lifestyle, future care costs, and loss of income/earning capacity. The plaintiff was represented by counsel and adduced evidence from various medical and financial experts, including on the issue of income loss.

[63] In my view, even with higher damage awards on the horizon, the analysis under the existing intentional torts creates a real risk that triers of fact will miss the relevant social context and engage in stereotypical reasoning about the proper comportment and behaviour of survivors when assessing credibility. For example, they might speculate as to why a survivor of family violence would stay in an abusive relationship or fail to complain to police: see *R.S. v. M.S.M.*, *R.S. v. M.S.M.*, [2016 ONCJ 297](#), 88 R.F.L. (7th) 220, at para. [91](#). Appellate courts in Alberta, B.C.

and the Yukon have cautioned triers of fact to resist assessing credibility based on what a stereotypical victim should have done in similar circumstances: see *R. v. Lavallee*, [1990 CanLII 95 \(SCC\)](#), [1990] 1 S.C.R. 852, at pp. 871-890; *R. v. Thompson*, [2019 BCCA 1](#), 370 C.C.C. (3d) 354, at para. [54-55](#); and *R. v. Brame*, [2004 YKCA 13](#), at para. [13](#); *R. v. Naslund*, [2022 ABCA 6](#), at para. [141](#).

[64] Women may not leave abusive relationships due to “environmental factors” including a lack of job skills, the presence of children to care for and fear of retaliation: *Lavallee*, *supra*. In *R. v. Malott*, [1998] 1 S.C.R. 123 at para. 42, the Court recognizes other systemic barriers to leaving an abusive relationship, including: fear of losing custody, pressures to keep the family together, a weak social and financial support system, and that fact that the violence often does not end after leaving.

[65] Indeed, there were several stereotypes at play in the trial before me. When asked directly about the allegations of family violence, the Father immediately suggested that the Mother should not be believed because, “she was an educated person.” I warned the Father’s counsel during her cross-examination of the Mother that it would be improper to suggest that the Mother could not be believed because she immigrated to Canada with the Father after the first incident of violence. I also ruled that it was improper to suggest that the Mother was more likely to have fabricated the family violence because she was cast in a movie about intimate partner violence post-separation.

[66] Second, recognizing the tort of family violence is consistent with the compensatory goals of tort law. The harms associated with family violence include acute and chronic health issues (*i.e.*, soft-tissue injuries, broken bones, chronic pain); mental, psychological, and social problems (*i.e.*, low self-esteem, depression, anxiety, PTSD), underemployment and absenteeism, low career advancement, substance abuse, self-harm, suicidal ideation, death by suicide, and femicide. Physical and mental injuries, future case costs, and lost earning potential are regularly quantified in other civil law contexts. An award of spousal support will be insufficient to compensate for the true harms and financial barriers associated with family violence.

[67] Moreover, recognition of the tort of family violence is consistent with the overarching imperative to remove the economic barriers facing survivors that try to leave violent relationships and access justice. At present, the negative financial and social impact of family violence is almost exclusively borne by the survivor. In her concurring reasons in *Michel v Graydon*, [2020 SCC 24](#), 449 D.L.R. (4th) 147, at paras. [95-96](#), Martin J. recognized that women are more likely to suffer financial, occupational, temporal, and emotional disadvantages because of intimate partner

violence. She drew a direct line between survivors' economic vulnerability and their diminished capacity to access justice, stating:

The impact of unstable housing and the lack of legal or financial resources on a person's ability to bring any kind of legal claim is evident. The impact of a history of violence on a person's emotional health and the consequent potential fear, unwillingness to engage with their past abuser, or inability to do so are just as apparent. In addition to this, some abusive fathers may use this child supports process as a way to continue to exercise dominance and control over their ex-wives. (citations omitted)

[68] While Ontario has enacted laws that allow survivors of family violence to terminate tenancies on shorter notice, take leaves of absence from employment, and benefit from certain presumptions in civil claims, these reforms hardly change the overall financial dynamic associated with leaving an abusive relationship: see *Limitations Act, supra*; *Residential Tenancies Act, 2006*, [SO 2006, c 17](#), at ss 47.1, 47.3; [Employment Standards Act, 2000, S.O. 2000, c 41](#) at s. 49.7; *Victims Bill of Rights, S.O. 1995, c 6*. The tort of family violence will give survivors an avenue to pursue both accountability and financial independence, albeit *ex post facto*, through a single, family law proceeding. The promise of significant financial compensation could make it more realistic for some women to leave violent relationships.

[69] Third, recognizing a tort of family violence is consistent with Canada's international human rights obligations under the *Convention on the Elimination of all Forms of Discrimination Against Women*, 18 December 1979, A/RES/34/180 (entered into force 3 September 1981, ratification by Canada 10 December 1981). In its *General Recommendation No. 35*, at para. 29, the United Nations Committee on the Elimination of Discrimination against Women recommends that States parties implement legislative measures that ensure that survivors "have access to justice and to an effective remedy," including civil remedies for "all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual or psychological integrity...".

[70] Finally, recognizing a tort of family violence is consistent with the normative standard of personal responsibility in our society: *Lavallee*, pp. 872-873. While family violence is a social issue, it is rooted in the actions of individuals. It is a matter of extreme power imbalance such that one party can exert physical, social, and psychological domination or control over another person. Parliament has stressed the aggravating nature of partner violence by codifying it in [s. 718.2](#) of the [Criminal Code, R.S.C., 1985, c. C-46](#). I agree with Pomerance J. that "courts must send a strong message that it is not acceptable to resort to violence in the domestic context": in *R. v. Morgan*, [2017 ONSC 5618](#), at para. 41.

Should the Father be liable in damages for family violence?

[71] At trial, both parties recounted events largely consistent with their pleadings. It was understandable that both parties would have some difficulty recalling some of the collateral facts surrounding the incidents given the passage of time, but this did not undermine the reliability of their evidence. Therefore, the matter boils down to one of credibility.

Credibility and the defence of recent fabrication

[72] Applying the framework for analysis set out in *Bradshaw v. Stenner*, [2010 BCSC 1398](#) at paras. [185-187](#), aff'd 2012 BCCA 296, 18 R.P.R. (5th) 184, I find the Mother to be the more credible witness when it came to the allegations of family violence.

[73] Despite extensive cross-examination, the Father was unable to shake the Mother's chronology or overall recollection of the events. While minor details may have changed, the substance of her claim did not. Moreover, the Mother's version of events, when considered on a "stand-alone" basis, is inherently more believable. A practical and informed person, aware of the social context of family violence and alive to the Mother's particular vulnerability after immigrating to Canada, would find her version of events to be both internally consistent and probable. For example, I accept that the Father used physical violence at the beginning of the marriage to condition the Mother to obey him, that the Mother became more vulnerable and the Father more violent after immigrating to Canada, that the Mother did not leave the relationship at first because of family expectations and later because of the children, and that she was generally socially and financially dependent on the Father.

[74] I reject the Father's defence of fabrication. He says that the Mother is motivated to lie about the abuse because of her anger over him abandoning her, and her desire for financial gain. In support of his theory, the Father notes that the Mother did not leave the relationship, did not include the tort claim in her 2016 Answer, and only complained to the police in advance of the family law trial in 2021.

[75] Foremost, I refuse to draw any negative inferences in relation to the Mother's credibility simply because she stayed in the relationship. The Mother clearly faced significant social and economic barriers to leaving the Father. I accept her evidence that she formed a clear impression over the course of the parties' marriage that both their respective families expected her to remain in the marriage and to tolerate the Father's actions. The clear implication was that neither family was willing to support her, financially or socially, if she left the relationship. By the time she arrived in Brampton, her friend Silky Mangat testified that the Mother was completely subservient to the Father's needs.

[76] The Mother also faced obvious financial barriers in terms of leaving the Father. Throughout the marriage, despite working, the Mother did not develop many marketable skills and did not earn a significant income. She was acutely aware that the parties were already struggling to run a single household on their two incomes. In July 2013, the Mother confided in a nurse that she was only then starting to feel as though she might have enough savings to even consider moving out. I also accept the Mother's explanation that she only went to the police with the assault allegations in 2021 after learning that the Father was "bad-mouthing" her to mutual friends by suggesting that the abuse allegations were made up for financial gain.

[77] On the other hand, I found that the Father's version of events did not make sense given some of the accepted facts about the parties' relationship. Throughout his testimony the Father characterized the Mother as lazy and uninterested in working to support the family, even though he admitted that she worked full-time immediately upon immigrating to Canada, and that she worked part-time after both Children were born. He also admitted that the Mother was responsible for all household tasks.

[78] The Father denied being financially controlling despite admitting that he left the family in 2016 because of the Mother's overspending. The Father testified that the Mother's trip to India was the last straw, even though he admitted under cross-examination that he had borrowed \$5000 the previous year to go on a much-longer trip to India. He also closed the parties' joint accounts immediately post-separation such that the Mother did not have access to any funds to support her or the Children.

[79] The Mother's evidence was generally corroborated by the accounts from the two lay witnesses who were her friends: Silky Mangat and Ranjit Panesar. While both were clearly supportive of the Mother, neither crossed the line into advocacy. Both women were careful not to testify to matters they did not directly observe and were forthright when they could not recall specific details. Silky Mangat had some favourable things to say about the Father, including that he was incredibly hard working. That said, her evidence about her difficult interactions with the Father post-separation were irrelevant. Ms. Panesar only met the Father once, very briefly; he has no recollection of their meeting.

[80] Ms. Mangat met the parties in 2010 when she arrived in Canada. Because her husband and the Father were good friends back in India, Ms. Mangat and her husband stayed with the parties for a few days upon landing. She was new to the country and said the Mother "looked okay" during their visit.

[81] Ms. Mangat said that her view of the Father changed over time. She described the Father as "dominating" throughout her testimony. When cross-

examined on what she meant by the term, she said that the Father was someone who believed that people should obey him. Ms. Mangat recalled the Father as domineering towards the Mother in social situations. She said that once, when they were over for lunch, the Father became angry because the Mother was still in the kitchen making the meal and screamed at her in Punjabi, "Why is the lunch not made? We are all hungry." Ms. Mangat recalled feeling that his actions were disrespectful to the Mother and to them as guests. She said that whenever they enjoyed a meal at the parties' home, the Mother would remain in the kitchen and serve the Father and guests. She never sat with the guests to eat, and the Father did not invite her to do so. Ms. Mangat said that this was not the norm in their social group.

[82] She also said that the Father was known to be irrationally jealous in relation to the Mother. Once, during a Diwali get-together, Ms. Mangat recalled the Father interrupting a conversation between Mr. Mangat and the Mother, saying, "You're not here to talk to my wife, you're here to talk to me."

[83] In February 2011, Ms. Mangat recalled an incident where the Mother was helping her to move apartments. The Father showed up outside around 10:00 p.m. and started screaming at the Mother. Ms. Mangat formed the impression that the Father was drunk and that he was angry because he did not consent to the Mother being away from the home. She said that she recalled the situation because it had made her and her husband very uncomfortable since they thought the Mother was there with the Father's "permission." When asked under cross-examination how the mother reacted to the incident, Ms. Mangat recalled that she was always "timid" and scared around the Father. She also mentioned that the Mother did not have her own cell phone at this time.

[84] When asked under cross-examination about how she could opine on the Father's drinking, Ms. Mangat was emphatic that he drank every day, and it was his "mode of life." She said that she observed this firsthand at the parties' home during the marriage, and when the Father lived with her and her husband for three to four months immediately post-separation in 2016.

[85] The second lay witness, Rajni Panesar, worked with the Mother in Edmonton at a local BMO branch. While she and the Mother remained in touch over the years, they are not as close as the Mother and Ms. Mangat. Ms. Panesar was appropriately cautious about her evidence given the passage of time. However, on the key points at issue, she was consistent, and I found her to be a very reliable witness.

[86] Ms. Panesar met the Mother in 2013. They started out as colleagues and eventually became friends. Ms. Panesar recalled many instances in 2013 when she found the Mother crying in the lunchroom, and one instance when she found

her crying in the bathroom. She said that the Mother often had swollen eyes from crying, and she formed the impression that she was “in a lot of pain, deep down.”

[87] Ms. Panesar eventually asked the Mother if she would feel comfortable speaking with her about what was happening in her life. She said that the Mother was “shy at first” but after a few weeks “opened up” and told her that she was having a hard time with the Father because he was “very abusive” and unsupportive. One time, after observing a bruise on the Mother’s upper arm while she was taking off her coat in the lunchroom, Mr. Panesar demanded to know what happened. The Mother told her that the parties had argued and that the Father had hit her.

[88] Ms. Panesar said that she suggested that the Mother attend counselling through their employee assistance plan. Ms. Panesar recalled accompanying the Mother to a counselling intake session in downtown Edmonton but could not recall the specific details. She said that she went to the first session to reassure the Mother that it would be private and that she could speak comfortably.

[89] Ms. Panesar also drove the Mother to the doctor so that she could get help with her ongoing mental health issues. She did not recall the name of the doctor or the precise timing, but she said that the Mother was having a “hard time focusing on life and raising two children because there was no support at home.” Ms. Panesar recalled that the Mother once told her that she was thinking about killing herself. The Mother told Ms. Panesar that she wanted to call the police but that she needed to stay in the marriage because of her parents’ expectations and her children’s needs.

[90] In cross-examination, Ms. Panesar readily admitted that the Mother was also sad because she was isolated in a new city without family or friends. Ms. Panesar admitted that she was aware that the Father wanted to separate from the Mother in 2013 and that the Mother’s family had helped her get legal advice. After the Mother moved back to Brampton, Ms. Panesar recalled the Mother calling her in June 2014. She said that the Mother was depressed and “sort-of suicidal” such that Ms. Panesar began calling daily for some time afterwards to check in on her.

[91] In preferring the evidence of the Mother over the Father, I also place significant weight on the Mother’s health records going back to 2009. During the Mother’s examination in Chief, the Father challenged the admissibility of the health records. His counsel argued that the records had little probative value since it is well-accepted that simply repeating a false allegation does not make it true.

[92] Here, the probative value of the medical records outweighs the potential prejudice because the records respond directly to the Father’s defence of recent fabrication. The Father says that the Mother only complained about *physical* abuse

after he threatened her with divorce in 2013 and once again after he launched this application post-separation in 2016. This argument places too much emphasis on the false distinction between different forms of family violence (*i.e.*, physical versus mental). Well before the first threat of divorce, on November 9, 2009, the Mother's family doctor wrote: "Marital problems for [years]. [Husband] jealous, puts her down. Not helpful – more demanding when she is ill." The fact that the Mother did not reveal the alleged physical violence at a routine doctor's visit is understandable given the short nature of the interaction and the fact that she never spoke about the abuse to a health professional before.

[93] The Mother was referred to psychotherapy on July 14, 2013, and made complaints about the abuse to a nurse the same month. In August 2013, she told two different doctors that her husband was abusive, that there was marital discord, and that she was in a dysfunctional relationship. While in Edmonton, between July 15, 2013 and October 8, 2013, the Mother attended an intake session and at least one session of counselling. The intake form indicated that she called because of the Father's "mental abuse," "put-downs", and drinking. She also recounted verbal and emotional abuse, including jealous behaviour, use of the silent treatment and constant yelling. The counselling record from August 1, 2013, states that the Mother recounted physical abuse at the beginning of the marriage but said that the physical abuse stopped after she threatened to "harm him back." The Mother candidly admitted that the Father had started to talk about divorce.

[94] The Father draws a lot of attention to the fact that the Mother only visited doctors and counsellors in 2013 after he threatened her with divorce. However, the evidence was unclear as to whether his threats of divorce came before or after the Mother saw the professionals. It is entirely plausible that the Father threatened divorce after the Mother started telling doctors and counsellors about the abuse. In any event, I find it natural that the Mother would feel more confident revealing the abuse and trying to get help if she thought the Father might be divorcing her.

[95] Overall, the Mother was the more credible witness as it related to the allegations of family violence.

Liability: Violent and threatening conduct

[96] Given that they were the most contentious allegations at trial, I turn first to the alleged violent and threatening behaviour. The Mother has proven that the Father engaged in serious physical assaults in 2000, 2008, and 2013. The general pattern was that the Father would become irrationally jealous, drink, engage in verbal arguments, and then beat the Mother.

[97] I accept the Mother's evidence that the first serious physical assault occurred in India in December 2000 after returning home from a trip to Europe. The

Father was jealous that their Italian tour guide had complimented the Mother's appearance. He thought the Mother did something to attract the guide's attention. When the Mother denied being at fault, she says the Father "beat her black and blue." When cross-examined on what she meant by the term "black and blue", the Mother said that it was a "hard beating" and that the Father punched and slapped her such that she had extensive bruising on her arms and body the next day. She could not recall the precise mechanics of the abuse but had a clear recollection of the overall incident. She said she did not fight back and was mostly silent during the altercation.

[98] After this incident, the Mother says that she stayed in the couple's room by herself for three days. Her Father-in-law eventually brought her food. The Father did not come to see her. The Mother said that, on the fourth day, the Father came and told her to get ready because he was taking her to the doctor. While walking to the appointment, the Father revealed that he had scheduled the doctor's appointment to make sure that the Mother didn't have any infertility issues and instructed her not to tell the doctor about the beating. The Mother said that she was shocked and felt ashamed but did not reveal the abuse to the doctor. She said that she always wore long-sleeved clothing so the doctor would not have seen the bruising. During this appointment, the parties learned that the Mother was pregnant.

[99] In my view, this assault was designed to condition the Mother to her new reality: that the Father was prone to angry outbursts when intoxicated; that he would meet challenges to his authority with physical violence; and that his family would condone the violence. When the Mother later confided in her mother about the abuse, her mother told her to stay in the relationship and that things would get better once she had a child. Her mother's motto for marriage was: "Stay quiet, stay happy."

[100] The next physical assault occurred on a November 2008 evening in Brampton. After coming home intoxicated, the Father accused the Mother of flirting with their mutual male friend who had been over earlier that day to help fix a computer. After hurling verbal accusations, the Father slapped the Mother, grabbed her by the neck, pulled her hair bun, and strangled her, stating he would "teach her a lesson" and questioning, "Will you do it again? Will you do it again?" The abuse ended when the Mother struggled free and ran to the kitchen, gasping for air and in need of water. The Father eventually passed out.

[101] The Mother described the incident as the worst night of her life. When asked in cross-examination why she did not complain to the police immediately afterwards, the Mother explained that she had two children to care for and that she was resigned to the situation because "It happens to every Indian woman." While I

do not accept this latter statement for the truth of its contents, it helps to illustrate the Mother's mental state at the time.

[102] I also accept the Mother's evidence that in 2013, while the couple were in Edmonton, when he was intoxicated, the Father would often yell at the Mother while restraining her wrists, shaking her by the upper arms and shoulders, and slapping her across the side of her head. This happened a handful of times and is consistent with Ms. Panesar's observations of bruising on the Mother's upper arm sometime in 2013.

[103] Finally, while I have specifically framed my analysis under the tort of family violence, in the alternative, I find that the Father committed the included tort of assault during the 2000, 2008, and 2013 incidents: *Non-Marine Underwriters, Lloyd's London v. Scalera*, [2000 SCC 24](#), [2000] 1 S.C.R. 551.

Liability: pattern of coercive and controlling conduct

[104] The Mother says that the Father engaged in a pattern of behaviour that was calculated to be coercive and controlling. The Mother says that the Father's physical abuse was part of an overall pattern designed to condition and control the Mother, and which also included psychological and financial abuse. The Father denied being restrictive or controlling towards the Mother, pointing out that he encouraged the Mother to pursue volunteer activities and drove her for television and radio appearances. He said he was proud of her status in the community. He noted that the parties held their bank and credit card accounts jointly.

[105] I find that the Father was psychologically abusive from the beginning of the marriage, insulting and belittling the Mother about her appearance and her difficulties conceiving. After they arrived in Canada, the psychological abuse included repeated threats to leave the Mother and the Children penniless. The Father would sometimes leave the matrimonial for hours or days, which caused significant disruption and stress. The Father also got angry at different points in the marriage when he perceived the Mother to have disrespected his family, been the object of other men's interest or desire, or not fulfilled her duties in the home to his satisfaction.

[106] After the physical abuse and serious verbal abuse, the Father would subject the Mother to weeks and sometimes months of "silent treatment" that would only end after she complied with his demand for sexual intercourse. While the Father denied ever "raping" the Mother, he admitted that he would sometimes "demand" sex. This was yet another manifestation of his control.

[107] The Mother said that, at the beginning, in 2002 and 2003, she would often write the Father letters of apology after these incidents because she was "scared

of him.” She would try to engage him in conversation and/or offer sex as a means to end his silent treatment. She continued to make all the meals and care for the Children. After the Children were older, around 2013, the Mother became more confident about challenging the Father. This only made their verbal disagreements more violent. During his silent treatment in 2015, the Mother moved into the basement bedroom. In 2016, she ultimately directly defied him by going to India. After that, the Father made good on his threats and left her.

[108] In relation to the allegations of financial control, I find that the Father made all financial decisions during the marriage. Under cross-examination, he admitted that the Mother never kept any of her income during the marriage and that her earnings were used solely for family expenses. He said that even her cash earnings, from babysitting and tutoring, were deposited into the parties’ joint account. He said that, while the Mother collected rent from the parties’ basement apartment at the Timberland house between 2004 and 2012, she gave him “every penny, for sure.” The Father also admitted that the Mother never questioned his earnings or spending habits throughout their marriage. As late as 2011, the Mother did not have a cellular phone.

[109] The fact that the parties held bank accounts jointly does not take away from the practical reality that the Father closely monitored the Mother’s spending habits. He readily admitted that he was often angry because of the Mother’s “over-spending.” However, during his testimony, beyond the Mother’s 2016 trip to India, the Father did not point to specific extravagant or unnecessary purchases. When she was managing their home renovation, the Mother provided the Father with a detailed hand-written accounting of the funds spent.

[110] I accept the Mother’s evidence that she had no access to funds immediately after the Father abandoned her and the Children. The Father admitted under cross-examination that, at the time of separation, the Mother was not working, was totally financially dependent on him, and would need to provide for their young children. He testified openly to closing all their joint account in contemplation of separation so that “neither of us could misuse the funds.” He admitted to unilaterally terminating the credit card that the Mother used to purchase groceries.

[111] Finally, while I have specifically framed my analysis under the new tort of family violence, I find that the Father has committed the included tort intentional infliction of emotional distress insofar as his pattern of coercive and controlling behaviour was “flagrant and outrageous,” calculated to produce harm, and resulted in the Mother’s depression and anxiety: *Prinzo v. Baycrest Centre for Geriatric Care* (2002), [2002 CanLII 45005 \(ON CA\)](#), 60 O.R. (3d) 474 (Ont. C.A.), at para. [48](#).

What damages should flow?

[112] The Mother is entitled to damages of \$150,000 in relation to the family violence she experienced during the marriage. Unlike the plaintiff in *Schultze, supra*, the Mother did adduce detailed evidence regarding the quantum of damages payable such that I am confined to amounts that can reasonably be inferred by a trial judge.

[113] While this damage award is high when compared to other cases involving “spousal assault,” it reflects the overall pattern of coercion and control at play in family violence matters. Moreover, I note that there are some rare spousal assault cases in which this range of damages has been awarded, though usually after a criminal conviction for a serious offence of violence: see *N.C. v. W.R.B.*, [1999] O.J. No. 3633, *C.S.F. v. J.F.*, [2002] O.J. No. 1350.

[114] I am prepared to award \$50,000 in compensatory damages in relation to the Mother’s ongoing mental health disabilities and lost earning potential. The Mother continues to suffer from depression and anxiety because of the Father’s abuse. While there was no long-term physical harm to the Mother, the physical assaults contributed to her psychological problems by making her scared and powerless to leave the relationship. Over the years, the Mother has taken medication and attended psychotherapy and/or counselling. At trial, the Mother was clearly re-traumatized by having to repeat the allegations of abuse in minute detail.

[115] I reject the Father’s assertion that the Mother’s mental health disabilities are the result of situational factors including the parties’ difficult relationship, the stress of immigration, and her miscarriage. The medical records and counselling notes clearly indicate that the Mother first sought medical attention for the mental health impacts of the ongoing abuse in 2013. Her diagnosis came some 12 years after she immigrated to Canada and some ten years after having a miscarriage. That said, there is no basis for concluding that the 2003 miscarriage itself was a caused by the family violence.

[116] While there is no documentation regarding the total cost of the Mother’s medication or therapy, I expect that addressing the fallout of the family violence will cost thousands of dollars per year well into the future. Neither party has private health insurance. I also accept the Mother’s evidence that her depression and anxiety will likely make it difficult for her to work in a fast-paced or demanding environment into the future, which will negatively affect her overall earning potential.

[117] Finally, I would caution that my compensatory damage award reflects my overriding obligation to ensure that the total financial compensation to the Mother is fair and proportional. The tort award is designed to compensate for harms that flowed directly to the Mother from the Father’s family violence. It is not to be

confused with spousal support that had a different purpose. For example, my retroactive spousal support award for the first three years post-separation (*i.e.*, 2017 – 2019) ranges from \$0 to \$594 per month. These modest awards reflect the Father’s ability to pay, coupled with his overriding responsibility to pay child support. The spousal award in this case was insufficient to support the Mother’s intensive therapy or counselling in the immediate aftermath of the parties’ separation.

[118] Moreover, based on my analysis on the quantum of spousal support owing below, there should be no concern about “double-dipping” when it comes to assessment of damages and awarding spousal support. For the purposes of spousal support, I did not account for the Mother’s mental health needs and confined myself only to consideration of her physical health needs unrelated to the abuse. Had there been no spousal support payable, I could easily have ordered compensatory damages in the range of \$100,000.

[119] The Mother is entitled to an additional \$50,000 in aggravated damages due to the overall pattern of coercion and control and the clear breach of trust. The Father preyed on the Mother’s vulnerability as a racialized, newcomer woman. He subjected her to cruel and demeaning behaviour. The Father’s post-separation conduct was egregious and left the Mother without funds to meet the Children’s daily needs. I accept the Mother’s evidence that the impact on the Children’s long-term mental health has been severe which, in turn, has made their care more challenging and aggravated the Mother’s damages. The Father’s refusal to pay adequate spousal support is consistent with his overall pattern of financial abuse.

[120] Finally, I am willing to award a total of \$50,000 in punitive damages. The Father’s conduct calls for strong condemnation. He abused the Mother for 16 years and created a situation where it was practically impossible for the Mother to leave the relationship or pursue accountability. Again, I have shown restraint in my punitive damage award because the Father is still facing outstanding criminal charges, is subject to ongoing bail conditions, and may face additional punitive sanctions: *Wandich v Viele*, [2002 CanLII 49549](#). Even if he is ultimately convicted of the criminal offences, it would not change my assessment of punitive damages.

HOW MUCH DOES THE FATHER OWE IN CHILD SUPPORT?

[121] The Father has been paying interim child support in the amount of \$1,113 per month since January 2018. The Mother says that the Father has under-reported his Income such that substantial child support arrears have accumulated, and that he should be required to contribute to ongoing expenses related to the Children’s university education.

[122] Based on my findings below regarding his Income between 2016 and 2022, the Father owes \$20,788 in retroactive child support to March 1, 2022: see *Schedule A, Table 2: Retroactive child support*. He shall pay monthly child support in the amount of \$802.20 per month for the youngest child until December 31, 2022.

[123] In relation to s. 7 expenses, overall, I am not satisfied that there is any unmet need in relation to the Children's post-secondary expenses after considering the RESP amounts available to them and their own reasonable contributions via part-time employment. That said, the Mother could seek a contribution from the Father in the future if there is evidence of unmet need.

The Children's circumstances

[124] The younger child lives with the Mother and is expected to graduate from high school in June. He will enroll in university next year and is expected to live away from home. There was no evidence before the court regarding his anticipated post-secondary expenses.

[125] The eldest child is currently a full-time student at McMaster University and expected to graduate in June 2023. He is in receipt of government loans and has a part-time job. He rents a furnished room for \$5160 per year, pays annual tuition of approximately \$8000, and regularly purchases various textbooks and software. He recently wrote the MCAT at a cost of about \$400.

[126] While the Mother admits that the eldest child has always rented a room in Hamilton for 12 months of the year, she claims that, since the pandemic, he has been living full-time with her. Under cross-examination, when asked how the family of three managed in a two-bedroom apartment, the Mother testified that the younger child, who is 17 years old, sleeps in the same room as her, while the eldest child uses the second room.

[127] While I accept that the eldest child has a close relationship with the Mother, I reject that he is currently living with her. Since enrolling in University, the eldest child has paid for the room in Hamilton consistently, even over the summers. Overall, I find it hard to believe that he would choose to live in cramped quarters in Brampton, far away from friends and activities, over living near campus in Hamilton. There is also no cogent evidence that would support a finding that the eldest child was living in Brampton over the summer. For example, I note that he enrolled in three courses in the summer of 2020.

[128] Between 2016 and 2021, the Father made a total of \$14,090 in RESP contributions. The eldest child, as of July 31, 2019, had \$34,306 available to him for post-secondary education. As of July 31, 2022, the youngest child will have approximately \$62,000 available to him.

The Father's Income

[129] The Father says that his 2018 – 2020 Income averaged \$71,340 based on his Line 150 self-employment income, plus certain business deductions that he admits are properly considered income for family law purposes.

[130] The Mother says that the Father's Income in the last three years averaged \$81,488. She says that the Father has been funneling money out of his Business for personal use under the guise of subcontractor payments ("Subcontractors") and accounting fees ("Accountant"). She says that the Father has failed to include his annual bonus in his Income and that he claimed excessive amounts for office expenses.

[131] I accept the Father's evidence regarding genuine business expenses that were either deducted at source by CNTL (insurance, union dues, scale tickets), or well supported by business records adduced at trial (cellphone, fuel, truck maintenance, parking expenses, bank charges, and the truck lease). His claims for office expenses were neither excessive nor material.

[132] On the other hand, the payments to Subcontractors were more significant, totaling thousands of dollars every year. During the marriage, the Father said he paid thousands of dollars to Subcontractors "under the table" to avoid negative tax implications. He testified that he only started writing cheques because the Mother insisted that he maintain proper business records as part of this litigation.

[133] The Father relies exclusively on cheques written to various individuals and numbered companies as proof that the Subcontractor fees were legitimate business expenses. In 2017, the cheques were all written to the same numbered company. In 2018, they were written to three different numbered companies. In 2019 and 2020, they were written to the same five companies.

[134] The Father's evidence on the issue of Subcontractors lacked credibility because:

- a) He maintained no records related to such payments during the marriage (*i.e.*, from 2014 – 2016);
- b) He offered no proof to support his position that he was required to hire Subcontractors that were identified on a list provided by CNTL and that he complied with this requirement;
- c) He provided no invoices for services rendered, receipts for payment made, nor any informal correspondence or accounting of amounts owing or paid, despite testifying that such payments were made based on a complex formula;

- d) He provided no evidence about why he required Subcontractor services on any of the specific dates, months, or years in question; and
- e) He did not call any of the Subcontractors as witnesses at trial.

[135] I have also reviewed the CNTL Contract and note that, under ss. 2.06, the Father was required to furnish CNTL with the “driving licenses, driving qualifications, and driving record” in respect of Subcontractors, and that he was also to obtain the Company’s consent prior to allowing another person to drive the truck. Again, he produced no documentation that would suggest that he complied with these requirements in relation to any of the Subcontractors that were paid by cheque.

[136] In cross-examination, the Father admitted that it was possible for the Business to write cheques to individuals and shell companies that would then pay the Father back in cash. However, he denied engaging in such a practice, saying “I would never do that.”

[137] Unfortunately, I cannot believe the Father on this point. Throughout his evidence, the Father candidly admitted to engaging in corrupt or fraudulent activities when it suited his personal or financial circumstances. For example, prior to the marriage, he admitted to travelling to Australia on a student visa without enrolling or completing any program of study, and remaining there after his visa expired such that he is permanently barred from entering the country in the future. The Father also admitted to “greasing the hands” of another driver to the tune of \$70,000, to ensure that the latter exercised his “nomination rights” with CNTL in favour of the Father.

[138] I also have serious concerns about the deductions claimed by the Father for services rendered by “Acme Accounting Inc. “. Again, he only produced receipts for the post-separation period; and the receipts are not itemized, signed, nor was HST calculated. They could have easily been prepared with a simple word processor.

[139] I refuse to accept that the accounting services were proper business deductions. Unlike the situation in *Osmar v. Osmar* (2000), [2000 CanLII 22530 \(ON SC\)](#), 8 R.F.L. (5th) 368 (Ont. S.C.), at para. [10](#), the Father’s accountant was not called to testify as to the services paid or services rendered. Moreover, in contrast to the situation in *Dhaliwal v. Dhaliwal*, [2017 BCSC 149](#), the Father did not rely on any business records created by the accountant to support his position on Income, instead relying only on pay and bank statements and detailed calculations prepared by his lawyer.

[140] The Mother has satisfied me on a balance of probabilities that the Father's business deductions for Subcontractors or the Accountant are properly considered part of his Income. As between the parties' differing position on the quantum of the Subcontractor deductions, I prefer the evidence of the Father as it is based on the most reliable evidence available to me (*i.e.*, the cheques). Given that the CNTL safety bonuses were payments made at source and reflected on his pay statements, the Father's failure to include them as part of his Income is inexplicable.

[141] Finally, I note that there are other indicia indicating that the Father's Income is higher than he claims. For example, in 2018 he bought a used Audi and travelled to India, and he is currently carrying a balance of over \$27,000 in his business bank account.

[142] The Father's income for the years 2016 – 2020 is set out below at *Schedule A, Table 1: The Father's Income*. For the purposes of 2021 and going forward, I find that the Father's Income shall be \$86,136, which is the average of his 2018-2020 Income. I have chosen to average the last three years because the Father leased a new truck in 2018 which lowered his available Income as compared to the 2016 and 2017.

HOW MUCH SHOULD THE FATHER PAY IN SPOUSAL SUPPORT?

[143] The Father has never paid spousal support and the Mother did not bring a pre-trial motion to demand it. Quantum and duration of spousal support was one of the main issues at trial, with the Father's position being that he owed a total of \$990 in lump sum retroactive support.

[144] The parties agree that the Mother has established a *prima facie* entitlement to support based on her need, the Father's relative ability to pay, and the length of the marriage. The issues I must determine are the Mother's Income, the appropriate quantum for support, and the amount owing.

[145] Based on my findings regarding the parties' Incomes and the child support payable, I calculate the retroactive spousal support owing as \$47,188: see *Schedule A, Table 3: Retroactive spousal support*.

[146] In terms of ongoing support, from April 1 – December 31, 2022, while child support is still payable, the Father shall pay \$822 per month in spousal support. From January 1, 2023 onwards, the Father shall pay \$2,224 in monthly spousal support until he retires from the workforce or his 65th birthday, whichever comes first.

The Mother's Income

[147] The parties do not agree on the Mother's Income from 2017 onwards. The Mother's position is that her Income is properly outlined in her tax returns, with some minor caveats. The Mother says she earned \$5000 in 2017, \$256 in 2018, and \$6100 in 2019, operating an informal, cash business providing carpooling and office administration services to neighbors and friends. She has no records of the cash she received and admits that it was not always deposited into her account but rather used to buy groceries.

[148] In relation to her negligible Income in 2018, the Mother says that she was unable to work due to well-documented personal health issues and the resulting surgery. However, the health records tendered before the court only indicated that she was advised to limit activities for six weeks post-surgery. When challenged in cross-examination, she admitted that she was not advised to be on bedrest for six months as she had initially testified, but rather that she wanted to take extra precautions.

[149] In 2020, the Mother says that she began studying for her immigration consultancy designation; she says her only income was the forgivable portion of an OSAP loan totaling approximately \$4000. To date, the Mother has not completed the online accreditation exam such that she was not able to work as a licensed immigration consultant in 2021 or 2022. She says that she could not write the exam in 2021 because she was involved in a minor car accident. While she produced associated medical records, she did not produce an accident report. She said the 2022 date was too close to the trial proceedings.

[150] Under cross-examination, the Mother refused to commit to a specific date on which she expected to write the exam, let alone begin working in her chosen field. The Mother was also evasive about her current position assisting in an immigration consultancy firm owned by her friend. For example, she revealed for the first-time during cross-examination that she had earned \$5000 for services rendered in 2021, received the money a few days earlier and deposited it in her account but provided no supporting documentation.

[151] The Father says that the Mother's bank account deposits do not match her claimed Income and it is likely much higher, in the range of \$30,000 to \$37,440. The Father says that the Mother is either earning an income that she has not disclosed or that she is intentionally underemployed such that income should be imputed to her. The Father notes that the Mother worked on and off during the marriage, with her final position being at BMO, and that she has inexplicably refused to work full-time since 2015 despite the Children being grown up.

[152] Based on a totality of the evidence, I am satisfied that the Mother has been intentionally underemployed awaiting the outcome of this litigation. I am prepared to impute \$30,000 in Income to her for each year post separation. While

the Mother's commitment to continuing education is commendable, I would have expected her to have at least tried to secure a part-time position at a bank or in an immigration consultancy office. For example, she admitted that her last role at BMO was not overly stressful yet could not explain why she did not apply for similar positions, even on a part time basis, while upgrading her skills. She also offered no explanation as to why she has not applied to be a part-time office manager at the immigration consultancy firm at which she completed her practicum.

[153] Finally, while the Mother admitted under cross examination that she had received other larger cash payments into her bank account in the years post separation that were not included in her Income, I accept her evidence that these were loans from her father and her brother-in-law. The Mother readily admitted that there were no loan documents nor any ongoing accounting for the amounts owed, but I accept her explanation that the family understanding was that they would go through the various banking records and "settle up" after she received her final equalization payment. When pressed as to why she did not use her OSAP loan or line of credit to fund her day-to-day expenses, she said that she did not want to pay interest and was emphatic that she does not go into debt because of the separation. When pressed for a further explanation, the Mother said that her family had stepped in to support her precisely because the Father had refused to pay spousal support to date.

Quantum and duration

[154] While the Children were/are living with the Mother (*i.e.*, 2016 – 2022), I find that she is entitled to spousal support at the high end of the *Spousal Support Advisory Guidelines* ("SSAG"). From 2023 onwards, when the Father is no longer paying child support, I find that he should pay spousal support such that the parties' net disposable income (or NDI) is equal.

[155] On the facts of this case, the Mother has a strong compensatory claim for spousal support. First, the division of labour during the marriage was traditional. While the Mother worked sporadically outside the home between 2002 and 2015, her primary responsibility was to the family. She was responsible for all household work including cooking, cleaning, laundry, ironing, grocery shopping, managing renovation projects, yard maintenance and hosting and entertaining friends and family. She was also responsible for all the childcare responsibilities, including bathing, clothing, feeding, and addressing the Children's health and educational needs. The Mother stopped working outside the home in 2015 due to her physical health issues at the time.

[156] Second, the Mother has faced many barriers in finding decent employment due to her intersectional experience as a racialized, immigrant woman and the nature of her relationship with the Father. When she arrived in Canada, the Mother

quickly learned that her degrees and designations would not be recognized. Her previous work in the entertainment industry in India did not translate into regular, paid work in Canada. While she was accredited as a Hindi interpreter and worked in that capacity for a year or two in Brampton, there was less demand for such services in Edmonton. Now, at the age of 53, she is finishing the accreditation process for immigration consultancy.

[157] Finally, the Father stopped seeing the Children shortly after separation and their care fell exclusively to the Mother. I accept that it is the Mother alone who would take them to the doctor and specialists, arrange for counselling and therapy, prepare their lunches and meals, transport them to and from school, help with their homework, and generally ensure they were well-cared for and well-fed. She did all this alone since she did not have any family in Canada. It is a testament to the Mother that both Children are well-positioned to be independent and self-sufficient after university. But it certainly came at a cost to the Mother in terms of her well-being and earning potential.

[158] I must not depart lightly from the support ranges outlined in the *Spousal Support Advisory Guidelines* lightly: *Slongo v. Slongo*, [2017 ONCA 272](#), 137 O.R. (3d) 654, at paras. [105-106](#). According to the *Spousal Support Advisory Guidelines*, at pp. 33, 45, in cases where one party has primary residency of the Children and the parties are low- to mid-income earners, spousal support should be in the mid-to-high end of the SSAG range. This is because of the significant compensatory claims associated with children, coupled with the needs in the home of the primary care parent. The authors of the user's guide caution that: "A simple default to the mid-point likely leaves many of these recipients under-compensated."

[159] On the date of separation, the Father was 48 years old, and the Mother was 47 years old. They were married for a total of 16.5 years. While this is not strictly a "Rule of 65" situation, I am still prepared to order that support continue until the Father turns 65 years of age. I am satisfied that the traditional nature of the marital relationship, independent of the family violence, has permanently, negatively-impacted the Mother's earning ability.

WHAT IS THE VALUE OF THE BUSINESS FOR THE PURPOSES OF PROPERTY EQUALIZATION?

[160] There was no expert evidence tendered regarding the value of the Business. The Father says that the value of the Business on the date of separation was \$16,431, including his truck and a bank balance of \$1,431. The Father admits that he sold the truck in 2018 for \$16,950. While the Mother did not seriously challenge the Father's evidence on these points, she says that the Business is

worth closer to \$100,000 after factoring in the value of the Father's service contract with CNTL.

[161] On February 14, 2014, the Business contracted to provide its trucking services exclusively to CNTL. This contract remains in full force and effect. Under the terms of the contract, the Father can "nominate" another driver to assume his service contract. The contract does not contemplate any formal assignment and therefore the practical effect of nominating someone to assume one's contract is not at all clear. In any event, the Mother argues that the "nomination rights" under the contract have a monetary value equivalent to approximately \$70,000.

[162] In support of her position the Mother relies exclusively on the following chain of events which the Father admits occurred as she describes. In February 2014, as he was starting up the Business, the Father transferred \$101,640 to Joginder Singh, the owner of 1344475 Ontario Inc. to purchase Mr. Singh's truck and assume his service contract with CNTL. The Father says that \$70,000 was a "goodwill" payment in exchange for Mr. Singh exercising his CNTL nomination rights in favour of the Father. He said that this was an under-the-table arrangement and that there was no written agreement or contract. Based on this chain of events, the Mother says that I should draw a reasonable inference that the Father will be able to "sell" his nomination rights if he stops driving for CNTL or retires.

[163] I refuse to do so. First, even accepting that the transaction with Mr. Singh took place as described, there was insufficient evidence to establish on a balance of probabilities that the nomination rights under the contract had value on the date of separation. At a practical level, the Father's nomination rights had not matured as of the date of separation. Under the terms of the contract, the Father was not entitled to exercise his nomination rights until 2019 at the earliest. Second, there was no evidence before me regarding the current market for such nomination rights. For example, the Mother adduced no evidence of other similar contracts or the existence of any market for such rights whether online or otherwise.

[164] Moreover, there was no evidence regarding CNTL's official or unofficial position on accepting payment in exchange for the exercise of a driver's nomination rights under the service contract. One can assume that such a practice is frowned upon given that the Father admitted in cross-examination that the practice of paying for nomination rights was corrupt. I have real concerns about equalizing assets whose only value lies on a black market.

[165] Finally, I note that since the CNTL contract is the source of the Father's income, the Mother benefited from it during the marriage and continues to do so. A job is not property. The contract here is more in the character of an employment agreement than a valuable business contract: see *Halloran v. Hotte* (2000), [2000 CanLII 22451 \(ON SC\)](#), 12 R.F.L. (5th) 57 (Ont. S.C.), at para. [39](#).

[166] Based on all the evidence, I value the Business at \$16,950 on the date of separation, which includes the value of the truck and the corporate bank balance. In terms of post-separation adjustments, the Father is entitled to a credit of \$38,825. These amounts were not seriously contested and includes maintenance of the matrimonial home prior to its sale, payment of joint debts, etc. The Mother is entitled to a credit for \$395 for movers she hired to remove the Father's items from the matrimonial home prior to its sale.

ORDER

[167] After accounting for the retroactive support awards, property equalization, post-separation adjustments, and damage award, the Mother shall be entitled to the entire proceeds of sale from the matrimonial home, and the Father shall pay her an additional \$24,680: see *Schedule A, Table 4: Final Accounting*.

[168] The Father shall pay ongoing child support in the amount of \$802.20 per month for the youngest child only until December 31, 2022, after which child support will no longer be payable.

[169] From April 1 through December 31, 2022, the Father shall pay \$822 per month in spousal support.

[170] From January 1, 2023, until he retires from the workforce or his 65th birthday, whichever comes first, the Father shall pay \$2,224 per month in spousal support.

[171] A support deduction order shall issue.

[172] The Father shall obtain life insurance to secure spousal support.

[173] The Children's post-secondary education expenses shall be paid from the RESP accounts held by the parties jointly for the benefit of the Children. These funds shall not be used for any other purpose. The Father shall not be required to contribute to the Children's post-secondary education expenses unless the Mother can establish unmet need.

[174] Future section 7 expenses or extraordinary expenses shall be divided such that the Father pays 65% and the Mother pays 35%. Prior to incurring a section 7 special or extraordinary expense, the parties must agree to the same in writing. Consent shall not unreasonably be withheld. Receipts/invoices will be promptly exchanged.

[175] The Mother was more successful at trial and is entitled to costs. The parties shall endeavor to come to an agreement on costs. If they are unable to do so, the parties may make brief written submissions with respect to costs (maximum two pages, excluding any settlement offers and Bills of Costs). The Mother shall

serve and file her costs submissions by March 18, 2022. The Father shall serve and file his submissions by March 25, 2022.

[176] **Note on draft released in error:** On February 25, 2022, my judicial assistant released a draft of these reasons to the parties without my prior approval; she applied my electronic signature without my prior authorization. The parties were advised by way of endorsement the same day to destroy all copies, and not to print or distribute the draft. These reasons replace all previous versions and are final.

MANDHANE J

Released: February 28, 2022

SCHEDULE A

	Income <i>per Father</i>	CNTL Bonus	Subcontract or Payments	Accountant Payments	Father's Income
2016	\$77,805	\$1,250	\$18,793	\$3,280	\$101,128
2017	\$67,464	\$1,500	\$12,892	\$3,700	\$85,556
2018	\$77,076	\$1,500	\$13,070	\$3,500	\$95,146
2019	\$65,357	\$2,500	\$7,421	\$4,000	\$79,278
2020	\$71,587	\$2,500	\$5,398	\$4,500	\$83,985

Table 1: Father's Income

Table 2: Retroactive child support

	Father's Income	Number of Children	Monthly Table Amount	Total Amount Owed	Total Amount Paid	Outstanding Amount
2016 July-Dec	\$101,128	2	\$1,485.59	\$8,913.54	0	\$8,913.54
2017	\$85,556	2	\$1,291.90	\$15,502.80	\$1,113	\$14,389.80

2018	\$95,146	2	\$1,411.84	\$16,942.08	\$13,356	\$3,586.08
2019	\$79,278	2	\$1200.06	\$14,472.72	\$13,356	\$1,116.72
2020	\$83,985	1	\$783.26	\$9,399.12	\$13,356	-\$3,956.88
2021	\$101,128	1	\$919	\$11,028.00	\$13,356	-\$2,328
2022 to Mar	\$86,136	1	\$802.20	\$2,406.60	\$3,339	-\$932.40
TOTAL						\$20,788.86

Table 3: Retroactive spousal support

	Monthly SSAG High	Spousal support Arrears
2016 July-Dec	\$839	\$5,034
2017	\$305	\$3,660
2018	\$594	\$7,128
2019	0	0
2020	\$866	\$10,392
2021	\$1,468	\$17,616
2022 Jan-March	\$822	\$3,288
TOTAL		\$47,188

Table 4: Final accounting

	Father	Mother
Matrimonial home	\$163,340	163,340
Business	(\$8,475)	\$8,475
Post-separation adjustments	\$38,825 (\$395)	(38,825) \$395
Retro spousal support	(\$47,188)	\$47,188
Retro child support	(\$20,788)	\$20,788
Tort Damages	(\$150,000)	\$150,000
TOTAL	(\$24,680)	\$351,361

CITATION: Ahluwalia v. Ahluwalia, 2022 ONSC 1303

COURT FILE NO.: FS-16-87188

DATE: 2022 02 28

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

AMRIT PAL SINGH AHLUWALIA

Applicant

- and -

KULDEEP KAUR

Respondent

REASONS FOR DECISION

MANDHANE J