

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF NAME,
ADDRESS OR IDENTIFYING PARTICULARS OF THE WITNESS
IDENTIFIED IN [13], [64] AND [65] OF THE JUDGMENT IN M v ROPER
[2018] NZHC 2330 REMAINS IN FORCE.**

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 16/2022
[2022] NZSC 62**

BETWEEN ROBERT ROPER
Applicant

AND MARIYA ANN TAYLOR
First Respondent

ATTORNEY-GENERAL
Second Respondent

SC 23/2022

BETWEEN ATTORNEY-GENERAL
Applicant

AND MARIYA ANN TAYLOR
First Respondent

ROBERT ROPER
Second Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: J F Mather and L M Herbke for Applicant (SC 16/2022) and
Second Respondent (SC 23/2022)
G F Little SC and G E Whiteford for First Respondent
A C M Fisher QC and E N C Lay for Second Respondent (SC
16/2022) and Applicant (SC 23/2022)

Judgment: 17 May 2022

JUDGMENT OF THE COURT

A Leave to appeal is granted (*Taylor v Roper* [2020] NZCA 268 reissued 16 December 2021 and *Taylor v Roper* [2021] NZCA 691).

B Leave to the First Respondent to cross appeal is granted.

REASONS

[1] These applications arise out of civil proceedings brought by Ms Taylor against Mr Roper for sexual assault and false imprisonment while both were employed by the Royal New Zealand Air Force in the late 1980s.

[2] In December 2020, this Court dismissed the applications for leave to appeal by the Attorney-General and Mr Roper against a decision of the Court of Appeal.¹ This Court reserved leave for the applicants to make a further application for leave to appeal. This was to allow the applicants the opportunity to apply for recall of the Court of Appeal decision, which did not deal with s 21B of the Accident Compensation Act 2001 (ACC Act).²

[3] The Court of Appeal granted the application for recall and reissued its 2020 judgment.³ The Court concluded that s 21B did not apply.

[4] The issues raised in the appeal are:

- (a) Whether the Court of Appeal erred in its interpretation of *Willis v Attorney-General*⁴ and in its interpretation of s 317 of the ACC Act.
- (b) Whether the Court of Appeal erred in its interpretation of s 21B of the ACC Act.
- (c) More generally, the Attorney-General wishes to argue that the Court of Appeal approach is inconsistent with the text, scheme and purpose of the ACC Act.

¹ *Attorney-General v Taylor and Roper v Taylor* [2020] NZSC 152 [SC leave decision]. The decision sought to be appealed against was *Taylor v Roper* [2020] NZCA 268.

² SC leave decision, above n 1, at [11]. This decision, however, dismissed Mr Roper's application for leave to appeal on limitation issues: at [10].

³ *Taylor v Roper* [2021] NZCA 691.

⁴ *Willis v Attorney General* [1989] 3 NZLR 574 (CA).

[5] Ms Taylor in her submissions indicated that, should leave be granted, she wishes to cross appeal against the holding that she has any entitlement to accident compensation cover at all.

[6] For the avoidance of doubt, leave is granted for all the issues outlined above to be argued.

Result

[7] Leave to appeal is granted (*Taylor v Roper* [2020] NZCA 268 reissued 16 December 2021 and *Taylor v Roper* [2021] NZCA 691).

[8] Leave to the First Respondent to cross appeal is granted.

Solicitors:

Albany Legal Limited, Auckland for Applicant (SC 16/2022) and Second Respondent (SC 23/2022)
Davenports City Law, Auckland for First Respondent
Crown Law Office, Wellington for Second Respondent (SC 16/2022) and Applicant (SC 23/2022)