

September 23, 2011

Movement builds to allow wrongful death suits in B.C.

By Kent Molgat (CTV British Columbia)

Link: <http://bc.ctvnews.ca/movement-builds-to-allow-wrongful-death-suits-in-b-c-1.701757>

People in West Kelowna are hoping to honour the death of an elderly volunteer killed by a pickup truck this summer with a wrongful death act allowing grieving families to sue for loss of life.

In July, a pickup truck strayed from Shannon Lake Road, striking and killing 74-year-old Stew Tuningley as he cleaned up trash.

His widow Vera describes him as a wonderful husband.

"He was a very loving, kind, supportive husband and the same as a grandfather, treasured by his grandchildren," she told CTV News. "There's a big void where he was,"

Friends say he was a tireless volunteer, as well.

"The church, the golf club and the Lions Club -- he helped them all very considerably. There were 400 people at his funeral. It's a great loss to the community," said Ian Reid of the Westbank Lions Club.

But if family members want to sue the 34-year-old driver of the pickup truck, Tuningley's volunteerism doesn't mean much, because he was retired and wasn't earning an income.

The Trial Lawyers Association of B.C. says this is an example of the kind of case courts need to start looking at differently.

"There's no compensation for the loss of the human being, for the loss to the society and the pain and suffering side of losing somebody," lawyer Paul Hergott said.

"There's no accountability."

The association will be rallying Sunday in Tuningley's name for the province to adopt a wrongful death act, hoping that with more accountability there might be less carelessness behind the wheel.

"These needless crashes -- they need to stop," Hergott said.

Police are still investigating the cause of the crash that killed Tuningley, but criminal charges aren't expected against the driver. More likely, he'll be charged with a violation of the Motor Vehicle Act.

With a report from CTV British Columbia's Kent Molgat