

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251106

Docket: A-387-24

Citation: 2025 FCA 202

**CORAM: STRATAS J.A.
MONAGHAN J.A.
ROUSSEL J.A.**

BETWEEN:

RANJILA BIHARI

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on November 6, 2025.
Judgment delivered from the Bench at Vancouver, British Columbia, on November 6, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

ROUSSEL J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on November 6, 2025).

ROUSSEL J.A.

[1] The applicant, Ranjila Bihari, seeks judicial review of a decision of the Appeal Division of the Social Security Tribunal dated August 28, 2024 (2024 SST 1040). The Appeal Division dismissed Ms. Bihari's appeal from a decision of the General Division of the Tribunal and

determined that she was not eligible for a survivor's allowance under the *Old Age Security Act*, R.S.C. 1985, c. O-9 (OAS Act).

[2] Ms. Bihari married in 1975. She and her husband separated in 2000 and divorced in 2007. Despite their separation and divorce, they remained close until the ex-husband's death in 2016. In 2021, Ms. Bihari applied for a survivor's allowance under the OAS Act. Her application was denied.

[3] The issue before the Appeal Division was whether Ms. Bihari was in a common-law relationship with her ex-husband at the time of his death. The Appeal Division found that while some factors indicative of a conjugal relationship as set out in *McLaughlin v. Canada (Attorney General)*, 2012 FC 556 favoured Ms. Bihari, most did not. The Appeal Division determined that, on balance, the *McLaughlin* factors did not support the existence of a common-law relationship.

[4] Ms. Bihari accepts the authority of *McLaughlin* and claims that the decision is unreasonable because the Appeal Division failed to meaningfully engage with the evidence and applied a narrow interpretation of the legal test for a common-law relationship, disregarding her personal circumstances and cultural background.

[5] We disagree. The Appeal Division considered the relevant factors for determining the existence of a common-law relationship and weighed them in light of the evidence adduced by Ms. Bihari. Any mischaracterization of the evidence regarding the deceased's smoking habits is not sufficiently serious as to render the decision unreasonable and the Appeal Division's reasons

clearly demonstrate that Ms. Bihari's personal circumstances and cultural background were considered. The Appeal Division did not commit a reviewable error simply because it structured its analysis by grouping the factors differently than in *McLaughlin* (at para. 15). Such factors are to be applied in a flexible manner (*M. v. H.*, [1999] 2 S.C.R. 3 at paras. 59-60). While Ms. Bihari may disagree with the weight given to each factor, it is not our role to reweigh the evidence in order to reach a different conclusion. Ms. Bihari has not met her burden of demonstrating that the decision of the Appeal Division is unreasonable (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65).

[6] Ms. Bihari also submits that the Appeal Division's process was procedurally unfair. In making this determination, the appropriate question to ask is whether the procedure was fair having regard to all the circumstances (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69 at para. 54).

[7] Although Ms. Bihari complains of the quality of the interpretation services provided at the hearing, she has not identified any real and significant interpretation error. If she had concerns about the quality of the interpretation services, she should have raised them at the hearing (*Irving Shipbuilding Inc. v. Canada (Attorney General)*, 2009 FCA 116; *Gill v. Canada (Attorney General)*, 2011 FCA 195).

[8] Furthermore, the audio recording was sufficiently clear for Ms. Bihari to commission a transcript. She has not persuaded us that the quality of the audio recording deprived her of a full and fair opportunity to present her case or raises any other procedural fairness issues.

[9] Likewise, Ms. Bihari's allegations of bias arising from the Appeal Division's conduct of the hearing are not supported by the evidence on the record.

[10] Finally, Ms. Bihari's remaining allegations do not establish in any way that she did not know the case to meet or that she was prevented from having a full and fair opportunity to respond.

[11] Accordingly, we will dismiss the application for judicial review. The respondent is not seeking costs and none shall be awarded.

"Sylvie E. Roussel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-387-24

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GENERAL OF CANADA

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COLUMBIA

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**REASONS FOR JUDGMENT OF THE COURT
BY:** STRATAS J.A.
MONAGHAN J.A.
ROUSSEL J.A.

DELIVERED FROM THE BENCH BY: ROUSSEL J.A.

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