

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT NASHVILLE

**FILED**

**December 2, 1997**

**Cecil W. Crowson  
Appellate Court Clerk**

CAROL POTKAN, )  
Plaintiff/Appellee ) No. 01S01-9701-CV-00024  
) (No. 6319 below)  
)  
v. ) MAURY CIRCUIT COURT  
)  
SATURN CORPORATION, ) HON. JIM T. HAMILTON, JUDGE  
Defendant/Appellant )  
\_\_\_\_\_ )

FOR THE APPELLANT:

THOMAS H. PEEBLES, IV  
DANA C. McLENDON, III  
WALLER, LANSDEN, DORTH & DAVIS  
P.O. Box 1035  
Columbia, TN 38402-1035

FOR THE APPELLEE:

J. ANTHONY ARENA  
SCHULMAN, LEROY & BENNETT  
P.O. Box 190676  
Nashville, TN 37219-0676

MEMORANDUM OPINION

MEMBERS OF PANEL

LYLE REID, ASSOCIATE JUSTICE, SUPREME COURT  
W. MICHAEL MALOAN, CHANCELLOR, SPECIAL JUDGE  
WILLIAM S. RUSSELL, RETIRED JUDGE

This appeal in a workers' compensation case has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tennessee Code Annotated Section 50-6-225 (e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

The plaintiff/appellee, Carol Potkan, sustained work precipitated bilateral carpal tunnel syndrome doing assembly line work for the defendant/appellant, Saturn Corporation. She underwent a surgical release on the right, but declined recommended surgery on the left. The surgery was performed on February 20, 1992. She returned to her prior job the following April, but was unable after two months to perform those duties because of pain in her arms. She worked for the next three years on light duty work at Saturn, experiencing a minimum of pain.

As a matter of the collective bargaining agreement between labor and management at Saturn, production technicians such as the plaintiff had been are required to rotate tasks being performed by their work group, and to have the ability to perform every task assigned. The plaintiff was restricted from using air guns, so is not qualified to work in such a group. She was, after three years of light work, placed on total disability, which provides an ongoing benefit until she reaches regular retirement age. She is subject to being recalled if a job opens up that she can do. She

loses her disability benefits if she gets a job anywhere, and she admits that she had not tried to do so.

There is credible expert medical proof that she retains a 10% anatomical impairment to her right arm and a 5% anatomical impairment to her left arm. The trial judge found her to have an 80% industrial or vocational disability to each arm, and ordered the resultant compensation of \$94,080.00 paid in a lump sum. The employer appeals and contends that the award is excessive and that lump sum payment is not supported by the record.

Our review of factual issues is de novo upon the trial court record. Except as to medical testimony presented solely by deposition, there is a presumption of correctness regarding the findings of fact of the trial judge. Tennessee Code Annotated Section 50-6-225 (e)(2); Cooper v. Insurance Company of North American, 884 S.W. 2d 446, 451 (Tenn. 1994).

Plaintiff is not unable to work. She did light work at Saturn for three years. She is subject to recall to light work there. She does all of her household chores, makes motor trips to and from Michigan, and is well educated.

It is our judgment that her industrial disability should be modified to 50% to each arm, and judgment entered accordingly. The lump sum issue is now moot.

Costs on appeal are assessed one-half to each party. The case is remanded for the calculation of interest and the enforcement of the judgment.

---

WILLIAM S. RUSSELL, SPECIAL JUDGE

CONCUR :

---

LYLE REID, ASSOCIATE JUSTICE

---

W. MICHAEL MALOAN, SPECIAL JUDGE

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

**FILED**  
**December 2, 1997**  
**Cecil W. Crowson**  
**Appellate Court Clerk**

CAROL POTKAN,	}	MAURY CIRCUIT
	}	No. 6319 Below
Plaintiff/Appellee	}	
	}	Hon. Jim T. Hamilton,
vs.	}	Judge
	}	
SATURN CORPORATION,	}	No. 01S01-9701-CV-00024
	}	
Defendant/Appellant	}	AFFIRMED AS MODIFIED.

JUDGMENT ORDER

*This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.*

*Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and*

*It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.*

*Costs will be paid one-half by each party, for which execution may issue if necessary.*

*IT IS SO ORDERED on December 2, 1997.*

PER CURIAM