IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE
June 3, 2002 Session

ROYAL & SUNALLIANCE v. BARBARA COOPER

Direct Appeal from the Chancery Court for Rutherford County
No. 99WC-1218 Robert Corlew, III, Chancellor

No. M2001-01580-WC-R3-CV - Mailed - October 14, 2002
Filed - November 15, 2002

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. In this appeal, the employer's insurer questions the trial court's finding that the employee's injury is causally related to her employment; and the employee questions the sufficiency of the award. As discussed below, the panel has concluded the judgment should be affirmed.

Tenn. Code Ann. § 50-6-225(e) (2001 Supp.) Appeal as of Right; Judgment of the Chancery Court Affirmed.

JOE C. LOSER, JR., SP. J., delivered the opinion of the court, in which ADOLPHO A. BIRCH, JR., J., and TOM E. GRAY, SP. J., joined.

Diana C. Benson and Larry G. Trail, Murfreesboro, Tennessee, for the appellant, Royal and SunAlliance

Keith Jordan, Nashville, Tennessee, for the appellee, Barbara Cooper

MEMORANDUM OPINION

The appellant initiated this civil action seeking a declaration of its rights and liabilities relative to the appellee's claim for benefits under the Workers' Compensation Law. By her answer and counterclaim, the employee or claimant, Barbara Cooper, demanded medical and permanent disability benefits for an injury allegedly arising out of and in the course of her employment by Nissan North America, Inc. After a trial on the merits, the trial court awarded lifetime medical benefits and permanent disability benefits based on 13 percent to the left leg. Both parties have appealed.

Appellate review is de novo upon the record of the trial court, accompanied by a presumption

of correctness of the findings of fact, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2). The reviewing court is required to conduct an independent examination of the record to determine where the preponderance of the evidence lies. Wingert v. Government of Sumner County, 908 S.W.2d 921, 922 (Tenn. 1995). Conclusions of law are subject to de novo review on appeal without any presumption of correctness. Nutt v. Champion Intern. Corp., 980 S.W.2d 365, 367 (Tenn. 1998).

Where the trial judge has seen and heard the witnesses, especially if issues of credibility and weight to be given oral testimony are involved, considerable deference must be accorded those circumstances on review, because it is the trial court which had the opportunity to observe the witnesses' demeanor and to hear the in-court testimony. Long v. Tri-Con Ind., Ltd., 996 S.W.2d 173, 178 (Tenn. 1999). The trial court's findings with respect to credibility and weight of the evidence may generally be inferred from the manner in which the court resolves conflicts in the testimony and decides the case. Tobitt v. Bridgestone/Firestone, Inc., 59 S.W.3d 57, 62 (Tenn. 2001). The appellate tribunal, however, is as well situated to gauge the weight, worth and significance of deposition testimony as the trial judge. Walker v. Saturn Corp., 986 S.W.2d 204, 207 (Tenn. 1998).

On December 18, 1998, after working for Nissan for thirteen years, the claimant reported to her supervisor at Nissan that she was suffering pain in her left knee. Her duties there involved twisting, turning and bending in such a way as to cause hyper extension of her knees. At the time, the claimant was already receiving medical benefits for a back condition. On February 25, 1999, while negotiating some steps at her home, the claimant felt a popping sensation in her left knee, accompanied by pain. When the knee became swollen, the claimant went to bed. The next day, she reported the incident to Nissan and was referred to Dr. Terry Walker. She continued working while receiving care from Dr. Walker. Ultimately, she was referred to an orthopedic surgeon, who surgically repaired a torn medial meniscus and chondral fracture. She returned to work on October 18, 1999 without restrictions. The surgeon related the injuries to the claimant's work at Nissan, based on the history provided by the claimant.

The appellant contends the trial court erred in finding the claimant's knee injury to be work related because the "most significant manifestation" of the injury occurred away from work. We are unaware of any "most significant manifestation" rule. An accidental injury is work related if there is any causal connection between the injury and the employee's work. GAF Bldg. Materials v. George, 47 S.W.3d 430, 432 (Tenn. 2001). Moreover, any reasonable doubt as to whether an injury arises out of the employment should be resolved in favor of the employee. Reeser v. Yellow Freight System, Inc., 938 S.W.2d 690 (Tenn. 1997). The issue is accordingly resolved in favor of the appellee.

The appellee contends the award is inadequate because the surgeon's estimate of her medical impairment is 7 percent and because of her age and education. Ms. Cooper is 50 years old with a high school education. As already noted, she has returned to work without limitations. The extent of an injured worker's vocational disability is a question of fact. Story v. Legion Ins. Co., 3 S.W.3d 450, 456 (Tenn. 1999) Once the causation and permanency of an injury have been established by

expert testimony, the trial judge may consider many pertinent factors, including age, job skills, education, training, duration of disability, and job opportunities for the disabled, in addition to anatomic impairment, for the purpose of evaluating the extent of a claimant's permanent disability. McCaleb v. Saturn Corp., 910 S.W.2d 412, 416 (Tenn. 1995). From a deliberate consideration of the record, we cannot say the preponderance of the evidence is other than as found by the trial court.

For those reasons, the judgment of the trial court is affirmed. Costs are taxed to the parties, one-half each.

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JOE C. LOSER, JR.

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JUDGMENT

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 by the parties, one-half each, Inc., for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM