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

DARRYL GENE WILLIAMS V. BRIDGESTONE/FIRESTONE, INC.

Direct Appeal from the Chancery Court for Rutherford County
No. 03-6407WC, Hon. Don R. Ash, Circuit Judge

No. M2003-02962-WC-R3-CV - Mailed: March 3, 2005
Filed: April 5, 2005

This case is before the court upon the entire record, including the order of referral to the Special Workers' Compensation Panel, in compliance with Tennessee Code Annotated § 50-6-225(e)(3) for hearing and reporting of findings of fact and conclusions of law. On November 12, 2002, Mr. Darryl Gene Williams had a work-related accident which caused a torn medial meniscus in the left knee. The treatment of the knee injury revealed preexisting left knee chondromalacia, arthritis. Surgery repaired the torn medial meniscus but Mr. Williams' chondromalacia became symptomatic causing pain and limited his recovery from this injury. The trial court awarded benefits for the work-related injury and provided for future medical care for the medial meniscus tear as well as the underlying chondromalacia finding that the preexisting chondromalacia had been aggravated by the work-related injury. During oral argument, Bridgestone limited the scope of the appeal to the single issue of the propriety of the trial court awarding future medical care for the left knee chondromalacia. After carefully considering the record, we affirm the trial court determination.

Tenn. Code Ann. § 50-6-225(e)(3) Appeal as of Right; Judgment of the Chancery Court Affirmed.

J. S. (Steve) Daniel, SR. J. delivered the opinion of the court, in which William M. Barker, J. and Jerry Scott**,** SR. J., joined.

Kitty Boyte, Nashville, TN, for Appellant, Bridgestone/Firestone, Inc.

Susan K. Bradley, Rutherford, TN, for Appellee, Darryl Gene Williams.

OPINION

I. Facts and Procedural History

Mr. Darryl Gene Williams' work history reveals that he was first employed in 1981 by Brown Transportation as a laborer. In 1988 he began his employment with Bridgestone/

Firestone, Inc. as a stock cutter and he has held other production jobs. Mr. Williams is a 42-year-old male who has a high school education, two years of junior college and his employment history has been in exclusively labor-intensive jobs.

On November 12, 2002, Mr. Williams suffered an injury to his left knee while working at his work station at Bridgestone. This injury was in the course and scope of Mr. Williams' employment and occurred when he was pulling an empty rack. The rack came off of a tract and Mr. Williams attempted to push it back into position, twisting his left knee. The injury was timely reported to Bridgestone and Mr. Williams was treated by Dr. Malcome Baxter. At a later time Dr. Walter W. Wheelhouse provided Mr. Williams with an independent medical evaluation and testified as to his finding of impairment.

Dr. Baxter's physical examination revealed a torn medial meniscus of his left knee. This meniscus tear was determined by the physicians to have been caused by the work incident. Mr. Williams underwent surgery to repair the torn medial meniscus and in treating Mr. Williams, Dr. Baxter found chondromalacia in the same area of the knee as the meniscus tear. Chondromalacia is a degenerative type of arthritis and was not caused by the work-related injury. This degenerative arthritic condition had preexisted the knee injury for some time for it to be as advanced as was discovered by the doctors. However, Mr. Williams testified at trial that his knee was asymptomatic prior to his work injury. Following the surgical procedure, Mr. Williams had considerable pain and limitations to his knee associated with his arthritic condition. The trial court determined that Plaintiff's chondromaliacia was asymptomatic and made worse because of the torn medial meniscus injury. The trial court awarded benefits for the injury to a scheduled member and ordered that future medical coverage be provided by Bridgestone for the injured left knee including the aggravation of the arthritic condition. Bridgestone has sought appellate review of the latter portion of this decision. It is the appellant's position that the single issue raised by this appeal is whether it is appropriate to hold the employer responsible for future medical treatment for the chondromaliacia which was not caused or advanced by the work-related injury.

II. Standard of Review

Review of the findings of fact made by the trial court is de novo upon the record of the trial court, accompanied by a presumption of the correctness of the findings, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2) and Stone v. City of McMinnville, 896 S.W.2d 548, 550 (Tenn. 1995). The reviewing court is required to conduct an independent examination of the record to determine where the preponderance of the evidence lies. The standard governing appellate review of the findings of fact of a trial judge requires this panel to examine in depth the trial court's factual findings and conclusions. GAF Building Materials v. George, 47 S.W.3d 430, 432 (Tenn. 2001). Conclusions in law are subject to a de novo review on appeal without any presumptions of correctness. Presley v. Bennett, 860 S. W.2d 857, 859 (Tenn. 1993). When medical testimony is presented by deposition, this court is able to make its own independent assessment of the medical proof to determine where the preponderance of the evidence lies. Cooper v. INA, 884 S. W.2d 446, 451 (Tenn. 1994), Landers

v. Fireman's Fund Ins. Co., 775 S.W. 355, 356 (Tenn. 1989).

Our independent review of the medical proof, reveals that Dr. Williams observed on the MRI the torn medial meniscus of the left knee. This examination also showed chondromalacia of a grade three and four within the same chamber of the knee as the tear. Dr. Williams was of the medical opinion that this condition was probably asymptomatic before the knee injury. It appears that Dr. Baxter had previously treated Mr. Williams for an ankle and elbow injury but had never been called upon to treat him for a knee problem. Dr. Wheelhouse made an independent medical examination of Mr. Williams' post surgically repaired knee and testified within a reasonable degree of medical certainty that it is possible for this arthritic condition to be asymptomatic prior to the meniscus tear and that the twisting knee injury could cause some sheering or stress-related injury to the chondromaliacia. It was Dr. Wheelhouse's opinion that the work injury aggravated the condition of the chondromaliacia and caused it to become symptomatic.

III. Analysis

The appellant relies for its position on a line of cases that stand for the proposition that in order to be compensable, a preexisting condition must be "advanced" or there must be an "anatomical change" in the preexisting condition or the employment must cause an actual progression of the underlying disease in order to be compensable. Cunningham v. Goodyear Tire & Rubber Co., 811 S.W.2d 888, 890 (Tenn. 1991), Talley v. Virginia Insurance Reciprocal, 775 S.W.2d 787, 591 (Tenn. 1989), and Sweatt v. Superior Industries Inc., 966 S.W.2d 31 (Tenn. 1988). This is a correct statement of the law in cases where there is a preexisting arthritic condition with no work-related injury that triggers symptoms of the underlying disease. The court in Cunningham v. Goodyear Tire & Rubber Co., 811 S.W.2d 888, 890 (Tenn. 1991), was dealing with a worker who was seeking benefits for the acceleration or aggravation of his preexisting arthritic condition. In that case, there had been no work-related incident and the thrust of the claim was that the general work which the Plaintiff was engaged in increased his pain. The court found that, "Where the employment does not cause an actual progression or aggravation of the underlying disease, but simply produces additional pain, there is substantial authority that a claim is not compensable when the disease itself was not an occupational disease but originated in conditions outside the employment." Id at 890. Therefore, the court denied benefits and found that the progressive disease to be noncompensable. In the case of Sweatt v. Superior Industries Inc., 966 S.W.2d 31 (Tenn. 1988), the court was faced with a worker claiming benefits for the aggravation of a preexisting arthritic condition. The worker had been asymptomatic prior to his employment and there was no work-related incident. The injury was claimed to have occurred as a result of the nature of the job triggering the symptoms to become symptomatic and worsened the underlying disease. The court awarded benefits in this situation based on expert proof that the work actually "advanced and resulted in the actual progression of the underlying psoriatic arthritis." Sweatt, Id. at 32.

Talley v. Virginia Insurance Reciprocal, 775 S.W.2d 587 (Tenn. 1989) involved a worker who had a long history of back problems associated with spondylolisthesis. The employee had had two previous back operations for a ruptured disk and was under the care of a physician for

back pain when she experienced a work-related fall which increased the back pain and gave rise to ultimately a surgical fusion. On appeal, this court concluded that she had a preexisting condition that made "the back pain worse but that the accident did not otherwise injure or advance the severity of that condition or result in any other disablement." Talley, Id. at 592.

We find that each of these authorities advanced by the Appellant are distinguishable from the current case. Mr. Williams' knee was asymptomatic until the work-related injury. After the meniscus tear and the surgical treatment of it, Mr. Williams' knee became symptomatic for chondromaliacia. Obviously, there is no other explanation as to how the knee becomes symptomatic other than that of the doctor's testimony indicating that such an injury could cause the knee to become symptomatic. In other works, the torn meniscus accelerated the symptomatic nature of the chondromaliacia and this event cannot be separated or severed from the work-related injury. The Bridgestone appeal is seeking to treat the torn meniscus and the symptomatic nature of the chondromaliacia as separate events in time and space, selecting to be responsible for the former and not for the latter. It has been held on more than one occasion that, "An employer takes his employee with all preexisting conditions and cannot escape liability when the employee, upon suffering a work-related injury, incurs disability far greater than if he had not had the preexisting condition." Kellerman v. Food Lion, Inc., 929 S.W.2d 333, 335 (Tenn. 1996). Therefore, the employer is responsible for all injuries which are precipitated by the work-related incident.

Succinctly stated, when a worker seeks to make a work-related claim that is based upon an underlying arthritic condition becoming symptomatic because of a relationship between the nature of the work absent a work-related incident, the worker has the burden of proof to prove by a preponderance of the evidence that the work "advanced" or caused "anatomical change" in the preexisting condition, or that the employment caused an actual progression of the underlying disease, to recover. Cunningham, Id. at 890. On the other hand, when a work-related incident triggered the symptomatic nature of the underlying chondromaliacia and those symptoms as well as the repair of the torn meniscus are inseparable, the injury in it entirety is compensable.

Therefore, we find that the evidence does not preponderate against the judgment of the trial court. The judgment of the trial court is affirmed. Costs of the appeal are assessed to the Appellant, Bridgestone/Firestone, Inc. for which execution may issue if necessary.

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J. S. DANIEL, SENIOR JUDGE

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
OCTOBER 27, 2004 SESSION

DARRYL GENE WILLIAMS v. BRIDGESTONE/FIRESTONE, INC.

Chancery Court for Rutherford County
No. 03-6407WC

No. M2003-02962-WC-R3-CV - Filed - April 5, 2005

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 appeals 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 Appellant, Bridgestone/Firestone, Inc., for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM