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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM
THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Full Commission Decision

Case No. 1320397

Stanley Starnes.....Respondent,


v.

Senn Freight Lines, Employer and Guarantee Insurance Company, Carrier.....Appellants.

NOTICE OF APPEAL

Senn Freight Lines and Guarantee Insurance Company appeal the Decision and Order of the Workers' Compensation Commission Appellate Panel dated December 21, 2016. Appellant received written notice of entry of this order on December 21, 2016.

January 20, 2017



David Hill Keller
Post Office Box 1509
Greenville, SC 29202
(864) 552-4622
Attorney for Appellants

Other Counsel of Record:

Thomas P. Bellinger
119 East Main Street
Lexington, SC 29072
Attorney for Respondent
(803) 359-5523

The issues on appeal/exceptions to the Decision and Order of the Workers' Compensation Commission Appellate Panel are as follows:

The defendants/appellants reiterate the Form 30 questions presented on pages 4-8, #s 1-33 as if specifically restated herein; and that the Full South Carolina Workers' Compensation Commission erred further as follows;

(1) In finding as a fact that the claimant incurred an aggravation of his pre-existing syring and back condition, the error being the substantial evidence on the whole record fails to support such a finding;

(2) In finding as a fact that photographs and evidence support that the claimant suffered an injury, the error being no evidence either expert or lay was presented regarding the photographs in evidence;

(3) In finding as a fact that the claimant's pre-existing condition was latent, the error being the substantial evidence on the whole record fails to support such a finding;

(4) In finding as a fact that the claimant's continued complaints of pain and stiffness in his neck are new symptoms directly related to his work injury, the error being the substantial evidence on the whole record fails to support such a finding;

(5) In finding as a fact that the claimant testified credibly, the error being such finding is not supported by anything in the record and is irrelevant to the question as the same is a medical expert question;

(6) In finding as a fact that the claimant is not at maximum medical improvement, the error being the substantial evidence on the whole record fails to support such a finding;

(7) In finding as a fact that the claimant is entitled to ongoing medical treatment, the error being the substantial evidence on the whole record fails to support such a finding;

(8) In finding as a fact that the defendants are responsible for causally related medical treatment, the error being that (1) the substantial evidence on the whole record fails to support such a finding and (2) the Commission has failed to state what medical expenses the defendants are responsible for;

(9) In finding as a fact that the claimant is entitled to temporary total disability compensation benefits from April 30, 2014 to the present and continuing, the error being no evidence was presented that the claimant's disability is related to any of the items which the single Commissioner and Full Commission found to be compensable;

(10) In finding as a fact that back due temporary total disability benefits are to be paid in a lump sum, the error being the substantial evidence on the whole record fails to support the claimant is entitled to temporary total disability;

(11) In concluding as a matter of law that the claimant carries the burden of proof of proving that he suffered an injury by accident under Title 42, the error being the substantial evidence on the whole record fails to support such a finding, and further that the conclusion constitutes an error of law;

(12) In concluding as a matter of law the claimant is entitled to temporary total disability compensation since April 30, 2014, the error being the claimant failed to present any evidence that his current disability is as a result of anything which the Commission found compensable;

(13) In concluding as a matter of law that the claimant received medical care and treatment for his injuries, and ordering the defendants to pay for causally related medical care, the error being that the Commission fails to delineate the exact conditions for which the defendants are responsible;

(14) In concluding as a matter of law that the defendants are responsible for ongoing medical care and treatment, the error being the substantial evidence on the whole record fails to support such a conclusion;

(15) In concluding as a matter of law that the claimant suffers from an aggravation of a pre-existing condition, the error being that the Commission has failed to delineate which conditions are compensable, which medical care and treatment is related to the same;

(16) In concluding as a matter of law that the claimant had an aggravation of his syring, the error being that there is no evidence anywhere in the record to support that the syring was caused or exacerbated by claimant's alleged roll-over injury;

(17) In concluding as a matter of law that the claimant is entitled to a lump sum payment for back due temporary total compensation the error being the substantial evidence on the whole record fails to support the claimant is entitled to temporary total disability compensation;

(18) In ordering that the claimant suffered a compensable aggravation of pre-existing syring and stenosis, the error being the substantial evidence on the whole record fails to support such an order;

(19) In ordering that the claimant suffered a compensable aggravation of his pre-existing conditions, the error being the same constitutes an error of law;

(20) In ordering that the claimant injured his neck which has caused pain and needle sensations in his left arm and hand, the error being the substantial evidence on the whole record fails to support such an order;

(21) In ordering that the claimant has not reached maximum medical improvement, the error being the substantial evidence on the whole record fails to support such an order;

(22) In ordering that the claimant is entitled to temporary total disability compensation, the error being the substantial evidence on the whole record fails to support such an order;

(23) In ordering that the defendants are responsible for causally related medical care, the error being the substantial evidence on the whole record fails to support such an order and the Commission has failed, as a matter of law, to delineate what, if any, medical care and treatment for which the defendants are responsible;

(24) In ordering that the claimant is entitled to temporary total disability compensation from April 30, 2014 to present, the error being the substantial evidence on the whole record fails to support such an order;

(25) In ordering that the claimant is not at maximum medical improvement, the error being the substantial evidence on the whole record fails to support such an order;

(26) In ordering the defendants to pay a lump sum payment to the claimant for back due temporary total disability compensation, the error being the substantial evidence on the whole record fails to support such an order;

(27) That because the claimant has died of unrelated causes, this case is not ripe for appeal and must be remanded to the Commission to determine if the claimant left any next of kin dependent upon him for support, the error being that as a matter of law the claim has abated.



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Attorney for Appellants

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PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Stanley Starnes by depositing a copy of it in the United States Mail, postage prepaid, on January 20, 2017, addressed to his attorney of record, Thomas P. Bellinger, 119 East Main Street, Lexington, South Carolina 29072 and on the South Carolina Workers' Compensation Commission, addressed to Amy Bracy, Judicial Director, P.O. Box 1715, Columbia, South Carolina 29202.

January 20, 2017


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REPLY TO:

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January 20, 2017

Honorable Jenny Abbott Kitchings
Clerk of the Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Stanley Starnes v. Senn Freight Lines and Guarantee Insurance Company
WCC File No. 1320397
Date of Injury: 8/7/2013
TPGL File No. 14102.00103

Dear Ms. Kitchings:

Enclosed is defendants/appellants' Notice of Appeal in the above-referenced matter along with the required \$100.00 filing fee. By copy of this correspondence, we are serving the same on the respondent and the South Carolina Workers' Compensation Commission.

Yours truly,

TURNER PADGET GRAHAM & LANEY P.A.



David H. Keller

DHK/sbd
Enclosures
cc: Thomas P. Bellinger
South Carolina Workers' Compensation Commission

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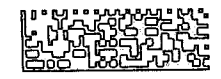
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