

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Louise Moran v. Rosciti Construction Co., LLC

815 S.E.2d 503 (W. Va. 2018) · No. No. 17-0993 · Decided June 4, 2018

SUMMARY

The Supreme Court of Appeals of West Virginia held that West Virginia workers' compensation dependents' death benefits remain payable when benefits awarded under another state's law for the same injury have been suspended because of a third-party settlement. The court reversed and remanded the Workers' Compensation Board of Review's decision, concluding that the applicable West Virginia statute did not require a credit for suspended out-of-state benefits.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Davis
JURISDICTION	West Virginia
DECIDED	June 4, 2018
DOCKET	No. 17-0993
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a decision of the West Virginia Workers' Compensation Board of Review denying payment of West Virginia dependents' death benefits while Rhode Island benefits for the same injury were suspended following a third-party settlement.
STANDARD OF REVIEW	The Court defers to the Board's findings of fact and reviews its legal conclusions de novo. The Board's decision may be reversed or modified if it clearly violates a constitutional or statutory provision, clearly results from erroneous conclusions of law, or is based on material findings of fact that are clearly wrong.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Louise Moran, dependent of William Moran (deceased) v. Rosciti Construction Co., LLC

TOPICS

workers compensation

statutory interpretation

judicial review of agency action

administrative law

construction law

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether West Virginia Code § 23-2-1c(d) requires West Virginia dependents' death benefits to remain offset when workers' compensation benefits awarded by another state have been suspended because of a third-party settlement.
2. What standard of review applies to decisions of the West Virginia Workers' Compensation Board of Review.

HOLDINGS

1. When reviewing a decision of the West Virginia Workers' Compensation Board of Review, the Court gives deference to the Board's findings of fact and reviews its legal conclusions de novo. The Board's decision may be reversed or modified if it clearly violates a constitutional or statutory provision, clearly results from erroneous conclusions of law, or is based on material findings of fact that are clearly wrong.
2. An award of dependents' death benefits under West Virginia workers' compensation law is payable, notwithstanding W. Va. Code § 23-2-1c(d), while benefits awarded under another state's workers' compensation laws for the same injury are suspended because of a third-party settlement.

KEY QUOTATIONS

"An award of dependents' death benefits under the workers' compensation laws of West Virginia is payable, notwithstanding W. Va. Code § 23-2-1c(d) (2003) (Repl. Vol. 2017), while benefits awarded under the workers' compensation laws of another state for the same injury are suspended due to a third-party settlement." (syllabus point 2)

"Because W. Va. Code § 23-2-1c(d) does not provide that suspended benefits awarded under the laws of another state be credited against workers' compensation benefits awarded pursuant to West Virginia law, it is not the proper role of this Court to create such a credit." (opinion at 17)

FACTUAL BACKGROUND

William Moran, an employee of Rosciti Construction Co., LLC, died in a West Virginia hotel from carbon monoxide intoxication while working on a fiber-optic project. His wife, Louise Moran, obtained workers' compensation dependents' benefits in both Rhode Island and West Virginia for the same injury. The Rhode Island benefits were later suspended after Moran entered a third-party civil settlement, and the parties stipulated that the settlement would exceed the amount of Rhode Island benefits otherwise payable during her life expectancy.

PROCEDURAL HISTORY

William Moran died in West Virginia from carbon monoxide intoxication while working for Rosciti Construction. Louise Moran obtained dependents' death-benefit awards in both Rhode Island and West Virginia, but West Virginia benefits were offset because the Rhode Island award was greater. After a third-party settlement caused Rhode Island benefits to be suspended, the claims administrator, the Office of Judges, and the Board of Review denied payment of West Virginia benefits. The Supreme Court of Appeals reversed and remanded for payment retroactive to the date the Rhode Island benefits ceased to be paid.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for payment of West Virginia dependents' benefits retroactive to the date on which the Rhode Island dependents' benefits ceased to be paid.

CASES CITED

- Rosciti Construction Co., LLC v. Moran, No. 14-0398, 2015 WL 6839865 (W. Va. Nov. 4, 2015)
- Bowers v. West Virginia Office of the Insurance Commissioner, 224 W. Va. 398, 686 S.E.2d 49 (2009)
- Bragg v. State Workmen's Compensation Commissioner, 152 W. Va. 706, 166 S.E.2d 162 (1969)
- Crawford v. West Virginia Department of Corrections-Work Release, 239 W. Va. 374, 801 S.E.2d 252 (2017)
- Johnson v. West Virginia Office of Insurance Commissioner, 226 W. Va. 650, 704 S.E.2d 650 (2010)
- Sheena H. ex rel. Russell H. ex rel. L.H. v. Amfire, LLC, 235 W. Va. 132, 772 S.E.2d 317 (2015)
- Chrystal R.M. v. Charlie A.L., 194 W. Va. 138, 459 S.E.2d 415 (1995)
- Bush v. Richardson, 199 W. Va. 374, 484 S.E.2d 490 (1997)
- Smith v. State Workmen's Compensation Commissioner, 159 W. Va. 108, 219 S.E.2d 361 (1975)
- Appalachian Power Co. v. State Tax Department, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- Farley v. Buckalew, 186 W. Va. 693, 414 S.E.2d 454 (1992)
- Old Republic Insurance Co. v. O'Neal, 237 W. Va. 512, 788 S.E.2d 40 (2016)
- Cart v. General Electric Co., 203 W. Va. 59, 506 S.E.2d 96 (1998) (per curiam)
- Huffman v. Goals Coal Co., 223 W. Va. 724, 679 S.E.2d 323 (2009)
- Banker v. Banker, 196 W. Va. 535, 474 S.E.2d 465 (1996)
- Martin v. Randolph County Board of Education, 195 W. Va. 297, 465 S.E.2d 399 (1995)
- Manchin v. Dunfee, 174 W. Va. 532, 327 S.E.2d 710 (1984)

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