

SUPREME COURT OF NEBRASKA

Vega v. Iowa Beef Processors, Inc., 264 Neb. 282

646 N.W.2d 643 (2002) · No. S-01-141 · Decided July 12, 2002

SUMMARY

The Supreme Court of Nebraska held that temporary total disability benefits received during vocational rehabilitation could be combined with permanent partial disability benefits for separate injuries, subject only to the maximum weekly income benefit in Neb. Rev. Stat. § 48-121.01. The court reversed the Workers' Compensation Court review panel and remanded with directions to reinstate the single judge's further award.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Gerrard, J.; Hendry, C.J.; Wright, J.; Connolly, J.; Stephan, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	July 12, 2002
DOCKET	S-01-141
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Vega appealed the Nebraska Workers' Compensation Court review panel's reversal and dismissal of a further award by the single judge. The Nebraska Supreme Court reviewed whether temporary total disability benefits and permanent partial disability benefits could be stacked up to the statutory maximum weekly income benefit.
STANDARD OF REVIEW	The Supreme Court may modify, reverse, or set aside a Workers' Compensation Court decision only when the compensation court acted without or in excess of its powers, the judgment was procured by fraud, the record lacks sufficient competent evidence, or the findings of fact do not support the order or award. Statutory interpretation is a question of law reviewed independently.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; binding precedent in Nebraska.
PARTIES	Gonzalo Vega v. Iowa Beef Processors, Inc.

TOPICS

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QUESTIONS PRESENTED

1. Whether permanent partial disability benefits for separate scheduled-member injuries may be paid concurrently with temporary total disability benefits received during vocational rehabilitation for an unrelated injury.
2. Whether the combined benefits are limited by the maximum weekly income benefit in Neb. Rev. Stat. § 48-121.01 or by the 66 2/3-percent-of-wages provision in § 48-121(1).
3. Whether the Workers' Compensation Court review panel erred by reversing and dismissing the single judge's further award.

HOLDINGS

1. A worker may receive permanent partial disability benefits for separate scheduled-member injuries concurrently with temporary total disability benefits paid during vocational rehabilitation for an unrelated injury, provided that the combined payments do not exceed the maximum weekly income benefit established by Neb. Rev. Stat. § 48-121.01.
2. The only statutory limitation on stacking the permanent partial disability and temporary total disability benefits at issue is the maximum weekly income benefit set forth in Neb. Rev. Stat. § 48-121.01; the 66 2/3-percent-of-wages provision in § 48-121(1) limits compensation for total disability alone and does not cap the aggregate of separate partial- and total-disability benefits.
3. The permanent partial indemnity benefits for Vega's 50-percent loss of earning capacity from the back injury were properly suspended during the period in which he received temporary total disability benefits for vocational rehabilitation.

KEY QUOTATIONS

“There is no prohibition in the workers' compensation statutes, other than the statutory maximum of [§ 48-121.01], that would prevent Anderson from being paid concurrently for both her permanent partial disability and her temporary total disability.” (649)

“The single judge of the Workers' Compensation Court correctly determined that Vega's temporary total disability and permanent partial disability benefits could be stacked up to the maximum weekly income benefit set forth in § 48-121.01.” (650)

FACTUAL BACKGROUND

Gonzalo Vega sustained four work-related injuries between 1994 and 1996 involving his right shoulder, right knee, left elbow, and lower back. The Workers' Compensation Court awarded permanent partial disability

benefits for the three scheduled-member injuries and a 50-percent loss of earning capacity for the back injury, and approved vocational rehabilitation with temporary total disability benefits during that rehabilitation. IBP paid temporary total disability benefits during vocational rehabilitation but claimed a credit against the permanent partial disability amounts awarded. The dispute concerned whether the benefits for the separate scheduled-member injuries could be paid concurrently with vocational-rehabilitation temporary total disability benefits and, if so, the applicable statutory maximum.

PROCEDURAL HISTORY

A single judge of the Nebraska Workers' Compensation Court awarded Vega permanent partial disability benefits for three scheduled-member injuries and a whole-body permanent partial disability for a back injury, together with temporary total disability benefits during vocational rehabilitation. The single judge later determined that IBP could not credit vocational-rehabilitation temporary total disability payments against the permanent partial disability award and entered a further award for past-due benefits, penalties, interest, and attorney fees. The Workers' Compensation Court review panel reversed and dismissed that further award, concluding that benefits were limited by 66 2/3 percent of wages under Neb. Rev. Stat. § 48-121(1). The Nebraska Supreme Court reversed and remanded with directions to reinstate the single judge's further award.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the review panel's judgment and remand with directions to reinstate the single judge's further award entered June 19, 2000.

CASES CITED

- Schwan's Sales Enters. v. Hitz, 263 Neb. 327, 640 N.W.2d 15 (2002)
- Nicholson v. General Cas. Co. of Wis., 262 Neb. 879, 636 N.W.2d 372 (2001)
- Green v. Drivers Mgmt., Inc., 263 Neb. 197, 639 N.W.2d 94 (2002)
- Anderson v. Omaha Pub. Sch. Dist., 254 Neb. 1007, 581 N.W.2d 424 (1998)
- Foreman v. State, 240 Neb. 716, 483 N.W.2d 752 (1992)
- Hansen v. Paxton & Vierling Iron Works, 138 Neb. 589, 293 N.W. 415 (1940)
- Peterson v. Borden's Produce Co., 125 Neb. 404, 250 N.W. 240 (1933)
- Nelson v. Service Oil Co., 121 Neb. 762, 238 N.W. 525 (1931)
- Gibson v. Kurt Mfg., 255 Neb. 255, 583 N.W.2d 767 (1998)
- Bindrum v. Foote & Davies, 235 Neb. 903, 457 N.W.2d 828 (1990)
- Thom v. Lutheran Medical Center, 226 Neb. 737, 414 N.W.2d 810 (1987)
- Siliphet v. IBP, Inc., 8 Neb. App. 48, 587 N.W.2d 895 (1999)
- McDonald v. DeCamp Legal Servs., 260 Neb. 729, 619 N.W.2d 583 (2000)

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