

SUPREME COURT OF MISSISSIPPI

Lovett v. Delta Regional Medical Center

157 So. 3d 88 (Miss. 2015) · Decided January 29, 2015

SUMMARY

The Mississippi Supreme Court reviews a workers’ compensation dispute involving a security guard’s slip-and-fall injuries, alleged loss of wage-earning capacity, and subsequent medical treatment. The Court holds that substantial evidence supported the Commission’s rejection of a thirty percent industrial loss determination, but concludes that Lovett was entitled to compensation for her undisputed two percent functional impairment to her right lower extremity. The Court affirms in part and remands for entry of an award addressing that impairment.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Randolph, Presiding Justice; Waller, Chief Justice; Dickinson, Presiding Justice; Lamar, Justice; Kitchens, Justice; Chandler, Justice; Pierce, Justice; King, Justice; Coleman, Justice
JURISDICTION	Mississippi
DECIDED	January 29, 2015
DISPOSITION	remanded
PROCEDURAL POSTURE	Lovett sought review of a Mississippi Workers’ Compensation Commission decision concerning permanent partial disability benefits and medical treatment. The Mississippi Court of Appeals affirmed the Commission, and the Mississippi Supreme Court granted Lovett’s petition for writ of certiorari.
STANDARD OF REVIEW	The Commission’s decision will be reversed only if it is not supported by substantial evidence, is arbitrary or capricious, or is based on an erroneous application of the law.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Yvonne Lovett v. Delta Regional Medical Center

TOPICS

- workers compensation
- administrative law
- standard of review
- appellate procedure
- remedies

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether Lovett was entitled to a separate two percent permanent partial disability award for the functional impairment to her right lower extremity.
2. Whether substantial evidence supported the Commission's rejection of the administrative judge's finding that Lovett sustained a thirty percent loss of wage-earning capacity from her back injury.
3. Whether Dr. Jenkins's treatment was within the requisite chain of referral.

HOLDINGS

1. The Commission's finding that Lovett did not sustain a thirty percent loss of wage-earning capacity was supported by substantial evidence and was affirmed.
2. Because Lovett had an undisputed two percent functional impairment to a scheduled member, she was entitled to a permanent partial disability award for that impairment.
3. The chain-of-referral issue was waived because Lovett raised it for the first time in her petition for certiorari review.

KEY QUOTATIONS

"The Commission's decision will be reversed only if it is not supported by "substantial evidence, is arbitrary or capricious, or is based on an erroneous application of the law." (¶ 7)

"Workers' losses are divided into two types: (1) industrial or occupational; and (2) functional or medical." (¶ 8)

"When medical or functional loss to a scheduled member occurs, the "worker is always entitled to compensation." (¶ 8)

FACTUAL BACKGROUND

Lovett worked as a security guard for Delta Regional Medical Center when she slipped and fell at work, injuring her back and right knee. After returning to work, she later experienced dizziness and weakness and was diagnosed with a transient ischemic attack. Delta paid related medical expenses and disability benefits, and Lovett was assigned a two percent impairment to her lower right extremity and a five percent whole-body impairment from her back injury.

PROCEDURAL HISTORY

Lovett filed two workers' compensation claims arising from a workplace slip-and-fall injury and a later mini-stroke; the claims were consolidated. The administrative judge found a thirty percent loss of wage-earning capacity from the back injury but denied compensation for the mini-stroke and certain medical expenses. The Commission reversed the thirty percent wage-earning-capacity finding and denied responsibility for treatment by two doctors outside the requisite chain of referral. The Court of Appeals affirmed. The Supreme Court affirmed

the substantial-evidence determination but remanded for the Commission to award compensation for Lovett's undisputed two percent functional impairment to her right lower extremity.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the Mississippi Workers' Compensation Commission to enter a judgment awarding Lovett a two percent disability for the impairment to her right lower extremity.

CASES CITED

- *Moreno v. State*, 79 So. 3d 508, 509 (Miss. 2012)
- *Weatherspoon v. Croft Metals, Inc.*, 853 So. 2d 776, 778 (Miss. 2003)
- *Meridian Profl Baseball Club v. Jensen*, 828 So. 2d 740, 745 (Miss. 2002)
- *Smith v. Jackson Constr. Co.*, 607 So. 2d 1119, 1126 (Miss. 1992)
- *City of Laurel v. Guy*, 58 So. 3d 1223, 1226 (Miss. Ct. App. 2011)

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