SUPREME JUDICIAL COURT OF MAINE

Maine Insurance Guaranty Ass'n v. Folsom, 2001 ME 63

769 A.2d 185 (2001) · No. CUM-00-308 · Decided April 23, 2001

SUMMARY

The Supreme Judicial Court of Maine held that Maine Insurance Guaranty Association was not liable to solvent workers' compensation insurers for apportionment of benefits attributable to an insolvent insurer. The court concluded that such apportionment claims constituted subrogation or otherwise fell outside the statutory definition of covered claims, making MIGA a guarantor of last resort. The judgment for MIGA was affirmed.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Clifford, J.; Wathen, C.J.; Rudman, J.; Saufley, J.; Alexander, J.; Calkins, J.
JURISDICTION	Maine
DECIDED	April 23, 2001
DOCKET	CUM-00-308
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hanover Insurance Company and Liberty Mutual Insurance appealed from a Superior Court summary judgment declaring that Maine Insurance Guaranty Association could not be required to pay an apportioned share of workers' compensation benefits owed by an insolvent insurer.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, and is appropriate when the parties agree that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Hanover Insurance Company, Liberty Mutual Insurance v. Maine Insurance Guaranty Association

TOPICS

workers compensation · insurance coverage · subrogation · statutory interpretation · declaratory relief insurance

PRACTICE AREAS

insurance · workers compensation · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether an insurer's claim for apportionment against MIGA is a subrogation claim or otherwise excluded from the definition of a covered claim under the Maine Insurance Guaranty Association Act.
2. Whether the insurer covering the employee's most recent injury is responsible for both past and future benefits until it obtains an apportionment against other responsible solvent insurers.
3. Whether excluding MIGA from apportionment deprives the employee of benefits or requires application of the law in effect at the time of an earlier injury.

HOLDINGS

1. A workers' compensation insurer's claim for apportionment against MIGA is in the nature of subrogation and is therefore excluded from the definition of a covered claim under 24-A M.R.S.A. § 4435(4). MIGA is not liable for an insurer's apportioned share unless and until the employee has exhausted rights and benefits available from solvent insurers.
2. The insurer providing coverage at the time of the employee's last injury is solely responsible for both past and future benefits until it obtains an apportionment against other responsible insurers.
3. Excluding MIGA from apportionment does not reduce or delay the employee's benefits. In this case, the law applicable to the 1992 injury governs the amount of benefits, and the most recent insurer remains responsible for paying the benefits awarded until any apportionment is obtained.

KEY QUOTATIONS

> *"[The MIGA] provisions make MIGA a guarantor of last resort."* (189-190)

> *"Apportionment does not affect the employee's entitlement to benefits or the timing of their receipt of those benefits."* (191)

FACTUAL BACKGROUND

Robert Folsom suffered three work-related injuries while employed as a wood-cutter: one in 1982 while Liberty Mutual insured his employer, one in 1983 while American Mutual insured the employer, and one in 1992 while Hanover insured the employer. American Mutual was declared insolvent in 1989, and MIGA administered its claims. After a hearing officer awarded Folsom ongoing partial-incapacity benefits and required Hanover to pay them initially, MIGA sought a declaration that neither Hanover nor Liberty Mutual could obtain an apportioned recovery from MIGA.

PROCEDURAL HISTORY

Robert Folsom filed workers' compensation petitions against the insurers and MIGA after suffering three work-related injuries. A Workers' Compensation Board hearing officer awarded ongoing partial-incapacity benefits and ordered Hanover, the insurer covering the most recent injury, to pay the benefits. MIGA then sought declaratory relief in the Superior Court, which entered summary judgment in MIGA's favor; Hanover and Liberty Mutual appealed.

DISPOSITION

affirmed

CASES CITED

- Rosetti v. Land Reclamation, 1997 ME 197, ¶ 7, 704 A.2d 312, 315
- Lamonica v. Ladd Holmes, 1998 ME 190, ¶ 5, 718 A.2d 182, 183-84
- Kennedy v. Brunswick Convalescent Ctr., 584 A.2d 678, 680 (Me. 1991)
- Johnson v. S.D. Warren, Div. of Scott Paper Co., 432 A.2d 431, 435-36 (Me. 1981)
- Dorr v. Bridge Constr. Corp., 2000 ME 93, ¶ 7, 750 A.2d 597, 600
- Ventulett v. Maine Ins. Guar. Ass'n, 583 A.2d 1022, 1023-24 (Me. 1990)
- Ray v. Carland Constr., Inc., 1997 ME 206, ¶ 6, 703 A.2d 648, 650-51
- Livingstone v. A-R Cable Servs. of Me., 2000 ME 18, ¶ 1 n. 1, 746 A.2d 901, 902 n. 1
- Loud v. Kezar Falls Woolen Co., 1999 ME 118, ¶ 11, 735 A.2d 965, 969