

SUPREME JUDICIAL COURT OF MAINE

Miller v. Spinnaker Coating, 2011 ME 79

25 A.3d 954 (2011) · No. WCB-10-562 · Decided July 12, 2011

SUMMARY

The Supreme Judicial Court of Maine affirmed a Workers' Compensation Board decision reducing Peter Miller's partial incapacity benefits by 25% after the statutory durational limit expired for the portion attributable to his 1992 injury. The court held that Maine law required apportionment by injury and application of the law in effect at the time of each injury, and that the reduction was not barred by the multiple-injury payment and subrogation provisions.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Silver, J.; Saufley, C.J.; Alexander, J.; Levy, J.; Mead, J.; Gorman, J.; Jabar, J.
JURISDICTION	Maine
DECIDED	July 12, 2011
DOCKET	WCB-10-562
DISPOSITION	affirmed
PROCEDURAL POSTURE	Miller sought appellate review of a Workers' Compensation Board hearing officer's decision granting S.D. Warren's petition to cease payments attributable to Miller's 1992 injury after expiration of the statutory durational limit and granting Spinnaker's petition to reduce the total benefit accordingly. The Supreme Judicial Court granted review and limited the appeal to whether the hearing officer improperly extended Cust v. University of Maine to permit a reduction when the durational limit expired for the first of multiple injuries.
STANDARD OF REVIEW	The court reviewed the Workers' Compensation Board hearing officer's legal interpretation and application of the Workers' Compensation Act on appellate review pursuant to 39-A M.R.S. § 322(3) and M.R. App. P. 23(c).
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential
PARTIES	Peter Miller v. Spinnaker Coating, Fireman's Fund, S.D. Warren Company

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QUESTIONS PRESENTED

1. Whether, under 39-A M.R.S. § 201(6) and the law applicable to Miller's 1992 injury, the benefit attributable to that injury could be discontinued after the statutory 520-week durational limit expired.
2. Whether 39-A M.R.S. § 354(3), the 2009 amendment concerning prior lump-sum settlements, or general apportionment principles required Spinnaker to continue paying the entire 65% partial incapacity benefit despite expiration of the 1992 injury's durational limit.
3. Whether *Dunson v. South Portland Housing Authority* required the most recent insurer to absorb the reduction in benefits attributable to the expired prior injury.

HOLDINGS

1. In a multiple-injury workers' compensation case, 39-A M.R.S. § 201(6) requires the court or hearing officer to apportion the employee's disability among the injuries and apply the law in effect when each injury occurred. Because the law applicable to Miller's 1992 injury imposed a 520-week limit and Miller had received all benefits attributable to that injury, the benefit could be reduced by the 25% portion attributable to the expired injury.
2. The 2009 amendment to 39-A M.R.S. § 354(3) prohibits a reduction in benefits based on a prior work-related injury that was the subject of an approved lump-sum settlement, but it does not prohibit a reduction when weekly benefits attributable to a prior injury have been fully paid under the applicable statutory durational limit.
3. *Dunson* does not require the most recent employer or insurer to continue paying the portion of a benefit attributable to a prior injury after the statutory limit for that prior injury has expired.

KEY QUOTATIONS

"In multiple-injury cases, the most recent insurer is "responsible to the employee for all benefits payable under [the Workers' Compensation] Act," and is then subrogated to the employee's rights for any amounts for which other employers or insurers are liable to the employee." (25 A.3d at 956)

"Section 201(6), however, requires us to consider the portion of the employee's incapacity that is attributable to each injury, and to apply the law in effect at the time of each injury." (25 A.3d at 957)

"His workers' compensation benefit, calculated according to the applicable partial incapacity statutes for each date of injury, must reflect a reduction of 25%, attributable to the expired injury." (25 A.3d at 959)

FACTUAL BACKGROUND

Peter Miller suffered lower-back injuries in 1992, 1995, and 1996 while working for S.D. Warren Company, and another injury in 1999 while working for Spinnaker Coating. A 2002 decree awarded him 65% partial incapacity benefits, apportioned equally among the four injuries; Spinnaker's insurer initially paid the entire weekly benefit and obtained reimbursement from S.D. Warren for its share. After S.D. Warren had paid the statutory maximum of 520 weeks attributable to the 1992 injury, the hearing officer authorized it to cease those payments and reduced Miller's total benefit by 25%.

PROCEDURAL HISTORY

Miller sustained four work-related lower-back injuries and was awarded 65% partial incapacity benefits apportioned equally among the injuries. The hearing officer denied Miller's petitions seeking increased benefits, granted S.D. Warren's petition to cease payments on the 1992 injury after 520 weeks, and granted Spinnaker's petition to reduce the benefit by the corresponding 25%. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Grubb v. S.D. Warren Co., 2003 ME 139, 837 A.2d 117
- Cust v. University of Maine, 2001 ME 29, 766 A.2d 566
- Dunson v. S. Portland Hous. Auth., 2003 ME 16, 814 A.2d 972
- Trottier v. Thomas Messer Builders, 2007 ME 64, 921 A.2d 163
- Legassie v. Securitas, Inc., 2008 ME 43, 944 A.2d 495
- Buckley v. S.D. Warren Co., 2010 ME 53, 997 A.2d 747
- Edwards v. Travelers Ins. Co., 2001 ME 148, 783 A.2d 163
- Johnson v. S.D. Warren, Div. of Scott Paper Co., 432 A.2d 431 (Me. 1981)
- LaPointe v. United Eng'rs & Constructors, 680 A.2d 458 (Me. 1996)

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