

SUPREME COURT OF SOUTH CAROLINA

Geathers v. 3V, Inc., 371 S.C. 570

641 S.E.2d 29 (2007) · No. No. 26254 · Decided January 29, 2007

SUMMARY

The Supreme Court of South Carolina held that the Workers' Compensation Commission lacked authority to apportion liability between successive workers' compensation insurers absent statutory or case-law authorization. The court adopted the last injurious exposure rule and held that the insurer covering the risk at the time of the second injury, Liberty Mutual, was solely liable for benefits following that injury. The court also applied the Gordon rule, under which disability proximately caused by a subsequent accident aggravating a prior nondisabling injury is compensable based on the subsequent accident.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Burnett; Chief Justice Toal; Justice Moore; Justice Waller; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	January 29, 2007
DOCKET	No. 26254
DISPOSITION	reversed
PROCEDURAL POSTURE	EBI petitioned for certiorari review of the South Carolina Court of Appeals' decision reversing the circuit court and reinstating the Workers' Compensation Commission's apportionment of liability between EBI and Liberty Mutual for successive workplace injuries.
STANDARD OF REVIEW	Workers' compensation decisions are reviewed under the Administrative Procedures Act. The reviewing court determines whether the circuit court properly determined that the Full Commission's factual findings are supported by substantial evidence and whether the decision is affected by an error of law. The Full Commission is the ultimate fact finder.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential.
PARTIES	EBI Companies v. Liberty Mutual Insurance Company

TOPICS

workers compensation

insurance

administrative law

judicial review of agency action

appellate procedure

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether the South Carolina Workers' Compensation Commission had authority to apportion liability between successive workers' compensation insurers for successive injuries.
2. Whether the Court of Appeals erred by failing to apply the rule in *Gordon v. E.I. Du Pont Nemours & Co.* to a subsequent workplace injury that aggravated a preexisting condition caused by an earlier workplace injury.

HOLDINGS

1. South Carolina adopts the last injurious exposure rule rather than an apportionment rule for successive workplace injuries. The insurer covering the risk at the time of the most recent causally related injury bears sole liability, unless the later injury is merely a recurrence of the earlier injury.
2. Under *Gordon*, when a subsequent accidental workplace injury proximately causes disability by aggravating, accelerating, or activating a preexisting nondisabling condition resulting from an earlier injury, compensability is attributable to the subsequent injury rather than the earlier one. The rule is not limited to the particular facts of *Gordon*.

KEY QUOTATIONS

"This rule 'places full liability upon the carrier covering the risk at the time of the most recent injury that bears a causal relation to the disability.'" (371 S.C. at 578)

"If the disability is proximately caused by the subsequent accidental injury, compensability is referable to that, and not the earlier one." (371 S.C. at 580)

FACTUAL BACKGROUND

Martha Geathers suffered a back and leg injury while working for 3V, Inc. on July 20, 1999, when EBI insured the employer. She returned to work after the first injury but continued to experience back pain. On May 11, 2000, while Liberty Mutual insured 3V, she suffered a second injury that aggravated and significantly worsened the same symptoms, after which she stopped working. Medical testimony characterized the second injury as an aggravation of the first and identified the first injury as the proximate cause of the overall condition, although the Commission found the injuries intertwined and inseparable.

PROCEDURAL HISTORY

The Single Commissioner found both injuries compensable and ordered EBI to pay benefits attributable to the period before the second injury, with EBI and Liberty sharing equally in causally related benefits after the

second injury. The Full Commission affirmed. The circuit court reversed and held Liberty solely liable for benefits following the second injury. The Court of Appeals reversed the circuit court and reinstated the Commission's decision. The Supreme Court of South Carolina granted certiorari, reversed the Court of Appeals, and reinstated the circuit court's judgment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Court reversed the Court of Appeals and reinstated the circuit court's decision finding Liberty Mutual solely liable for benefits following the second injury.

CASES CITED

- Gordon v. E.I. Du Pont Nemours & Co., 228 S.C. 67, 88 S.E.2d 844 (1955)
- Shealy v. Aiken County, 341 S.C. 448, 535 S.E.2d 438 (2000)
- Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981)
- Baxter v. Martin Bros., Inc., 368 S.C. 510, 630 S.E.2d 42 (2006)
- McCraw v. Mary Black Hosp., 350 S.C. 229, 565 S.E.2d 286 (2002)
- Anderson v. Babcock & Wilcox Co., 256 N.Y. 146, 175 N.E. 654 (1931)
- Glenn v. Columbia Silica Sand Co., 236 S.C. 13, 112 S.E.2d 711 (1960)
- Hanks v. Blair Mills, Inc., 286 S.C. 378, 335 S.E.2d 91 (Ct. App. 1985)
- Hargrove v. Titan Textile Co., 360 S.C. 276, 599 S.E.2d 604 (Ct. App. 2004)
- Kearse v. S.C. Wildlife Res. Dep't, 236 S.C. 540, 115 S.E.2d 183 (1960)
- Arnold v. Benjamin Booth Co., 257 S.C. 337, 185 S.E.2d 830 (1971)
- Wright v. Graniteville Co., 266 S.C. 88, 221 S.E.2d 777 (1976)