

SUPREME JUDICIAL COURT OF MAINE

McKeeman v. Cianbro Corp., 2002 ME 144

804 A.2d 406 (Me. 2002) · No. Cum-01-539 · Decided August 27, 2002

SUMMARY

The Supreme Judicial Court of Maine held that an employer's proportionate share of settlement-related attorney fees and costs under Maine's workers' compensation lien statute must reflect both benefits already paid and future compensation liability relieved by the employee's third-party settlement. The court vacated the Superior Court's repayment judgment and remanded for calculation of the employer's share by comparing its full benefit from the settlement with the total settlement value.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Saufley, C.J.; Clifford, J.; Rudman, J.; Dana, J.; Alexander, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	August 27, 2002
DOCKET	Cum-01-539
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Sharon McKeeman appealed from a Superior Court judgment determining the amount of workers' compensation death benefits she had to repay to S.D. Warren Company after settling a third-party action against Cianbro Corporation.
STANDARD OF REVIEW	The interpretation of 39-A M.R.S.A. § 107 is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential
PARTIES	Sharon McKeeman v. Cianbro Corp., S.D. Warren Company

TOPICS

workers compensation statutory interpretation remedies appellate procedure

PRACTICE AREAS

workers' compensation employment law appellate procedure

QUESTIONS PRESENTED

1. How should an employer's proportionate share of the costs of an employee's third-party settlement be calculated under 39-A M.R.S.A. § 107?
2. Does the employer's proportionate share include costs attributable to future workers' compensation liability relieved by the settlement, in addition to benefits already paid?

HOLDINGS

1. Under 39-A M.R.S.A. § 107, an employer's proportionate share of attorney fees and costs arising from an employee's third-party settlement must be calculated with reference to both benefits previously paid and future workers' compensation liability relieved by the settlement, to the extent that future liability can be determined.
2. The employer's proportionate share should be calculated by comparing the employer's full benefit from the settlement, including past benefits paid and the present value of future liability relieved, with the total settlement value.

KEY QUOTATIONS

“We conclude, therefore, that an employer's proportionate share of fees and costs upon an employee's settlement with a third party should be calculated with reference both to past benefits paid and future liability relieved, to the extent that it can be determined.” (411)

“S.D. Warren's proportionate share should therefore be calculated by comparing S.D. Warren's full benefit from the settlement, which is yet to be determined by the Superior Court, with the total value of the settlement, \$970,000.” (412)

FACTUAL BACKGROUND

Fred McKeeman died in 1996 from a work-related accident while employed by S.D. Warren Company. His wife, Sharon, and son received workers' compensation death benefits, and S.D. Warren paid Sharon \$107,616 in weekly benefits and \$4,000 in funeral expenses. Sharon later settled her third-party claims against Cianbro for a present-value amount of \$970,000, with a one-third contingent fee and \$60,195 in other litigation costs. S.D. Warren had also incurred \$7,500 assisting the third-party litigation.

PROCEDURAL HISTORY

After Fred McKeeman died in a work-related accident, Sharon McKeeman received workers' compensation death benefits and later settled her negligence and warranty claims against Cianbro for \$970,000. S.D. Warren intervened and asserted a statutory lien under 39-A M.R.S.A. § 107. The Superior Court ordered McKeeman to repay \$71,744 but did not explain its calculation, and denied her motion for findings of fact and conclusions of law. The Supreme Judicial Court vacated and remanded for a determination of S.D. Warren's proportionate share of settlement costs.

DISPOSITION

REMAND INSTRUCTIONS

The Superior Court must determine S.D. Warren's proportionate share of settlement costs based on past amounts paid and the present value of future liability relieved, comparing the employer's full benefit with the total settlement value.

CASES CITED

- *Harding v. Wal-Mart Stores, Inc.*, 2001 ME 13, ¶ 9, 765 A.2d 73, 75
- *Russell v. Russell's Appliance Serv.*, 2001 ME 32, ¶ 10 n. 3, 766 A.2d 67, 71 n. 3
- *Liberty Mutual Insurance Co. v. Weeks*, 404 A.2d 1006, 1008, 1013 (Me. 1979)
- *Dionne v. Libby-Owens Ford Co.*, 565 A.2d 657, 658 (Me. 1989)
- *Overend v. Elan I Corp.*, 441 A.2d 311, 312, 314 (Me. 1982)
- *Takahashi v. Loomis Armored Car Serv.*, 625 F.2d 314, 316 (9th Cir. 1980)
- *Stone v. Fluid Air Components of Alaska*, 990 P.2d 621, 624-25 (Alaska 1999)
- *Cameron v. Minidoka County Highway Dist.*, 125 Idaho 801, 874 P.2d 1108, 1111 (1994)
- *Zuber v. Illinois Power Co.*, 135 Ill. 2d 407, *Zuber v. Illinois Power Co.*, 135 Ill. 2d 407, 142 Ill. Dec. 871, 553 N.E.2d 385, 389 (1990)
- *Jones v. Melroe Division, Clark Equipment Co.*, 102 Ill. App. 3d 1103, 58 Ill. Dec. 934, 430 N.E.2d 1385, 1389 (1981)
- *Lemery v. Buffalo Airways, Inc.*, 14 Kan. App. 2d 301, 789 P.2d 1176, 1181-82 (1990)
- *Hunter v. Midwest Coast Trans., Inc.*, 400 Mass. 779, 511 N.E.2d 615, 618 (1987)
- *Cronen v. Wegdahl Cooperative Elevator Ass'n*, 278 N.W.2d 102, 105 (Minn. 1979)
- *City of Austin v. Janowski*, 825 S.W.2d 786, 791 (Tex. App. 1992)
- *Ruediger v. Kallmeyer Bros. Service*, 501 S.W.2d 56, 59-60 (Mo. 1973)
- *State v. Maizeroi*, 2000 ME 187, ¶ 14, 760 A.2d 638, 643
- *Fraser v. Barton*, 628 A.2d 146, 148 (Me. 1993)
- *Myers v. Philadelphia Daily News*, 168 Pa. Super. 561, 79 A.2d 787 (1951)