

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT JACKSON

August 31, 2000 Session

**DORETHA CURRIE v. KAISER ALUMINUM & CHEMICAL  
CORPORATION, D/B/A TENNALUM**

**Direct Appeal from the Chancery Court for Madison County  
No. 55378 Joe C. Morris, Chancellor**

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**No. W1999-00821-WC-R3-CV - Mailed February 6, 2001; Filed March 29, 2001**

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This workers' compensation appeal has been referred to the Special Workers' Compensation Panel of the Supreme Court in accordance with Tennessee Code Annotated § 50-6-225(e)(1999) for a hearing and reporting to the Supreme Court of findings of fact and conclusions of law. The appellant presents the following issues for review: (1) Whether the trial court erred in finding that plaintiff sustained permanent partial disability as a result of a work-related injury on August 16, 1997; and (2) Whether the trial court's award of 35 percent permanent partial disability to the left arm was supported by a preponderance of the evidence. After a review of the entire record, briefs of the parties and applicable law, we affirm the trial court's judgment.

**Tenn. Code Ann. § 50-6-225(e) (1999) Appeal as of Right; Judgment of the Chancery Court is Affirmed.**

WIL V. DORAN, SP. J., delivered the opinion of the court, in which JANICE M. HOLDER, J., and ROBERT L. CHILDERS, SP. J., joined.

John D. Burlison and Jeffery G. Foster, Jackson, Tennessee, for the appellant, Kaiser Aluminum & Chemical Corporation, d/b/a/ Tennialum.

David Hardee, Jackson, Tennessee, for the appellee, Doretha Currie.

## **MEMORANDUM OPINION**

### **FACTUAL EVIDENCE**

The plaintiff, at the time of trial, was a thirty-one (31) year old high school graduate who had obtained certification as a nursing assistant. She had previously been employed as a nursing assistant and production worker prior to her employment with the defendant. The plaintiff began her employment with the defendant as a temporary production worker on August 2, 1994, and obtained permanent employee status on December 1, 1994. The plaintiff was a member of a team that operated a combo line which included the operation of a Medart machine. As part of the defendant's production process, aluminum rods are automatically fed into this Medart machine which then processes the rods. Occasionally, some rods must be manually fed into the Medart machine.

On August 16, 1997, the plaintiff was manually feeding an aluminum rod into the machine when her glove was caught in the mechanism resulting in her left hand being twisted around the aluminum rod. She was seen at the emergency room by Dr. John Sparrow, a hand surgeon with The Jackson Clinic.

### **MEDICAL EVIDENCE**

Dr. Sparrow's examination indicated that the plaintiff had bruises on her hand and fingers, her flexor tendons and wrist movement were normal, she had good circulation in the hand and there was no evidence of a nerve injury. The plaintiff did not have any deformities in her fingers, however, she did sustain fractures to her fourth and fifth metacarpal at the base of the metacarpal. Dr. Sparrow placed the plaintiff's hand in a soft splint and prescribed pain medication. Dr. Sparrow provided follow-up care to the plaintiff from August 1997, to April 1998, which included examinations, x-rays of the hand, prescription pain medication and physical therapy. He initially released the plaintiff from his care in December of 1997. However, she returned to see him once more in April of 1998, complaining of pain in her hand. Dr. Sparrow opined that the plaintiff had no permanent anatomical impairment as a result of her injuries and placed no permanent restrictions on her. Additionally, Dr. Sparrow testified that the plaintiff had an excellent prognosis and that there would be no anatomical explanation for any limited use of her left hand as a result of her injuries.

The plaintiff was seen by Dr. Joseph Boals on September 2, 1998. Dr. Boals testified that the examination showed tenderness over what appeared to be a healing fracture site at the base of the index and small finger metacarpals. He administered grip strength testing and did not feel that the plaintiff was trying to embellish her injuries. Dr. Boals testified as follows:

- Q. Dr. Boals, is there any significance with respect to permanency that here it is almost two years after her accident and she is still having these problems?
- A. Well, I think it makes it more clear that this is a permanent injury. When you get that long a follow up, you feel pretty confident that nothing is going to change in the future.

- Q. What do you think is the reason for her to still have these problems in the left hand?  
A. Well, she had an injury. The hand is a very delicate instrument that will not tolerate even the slightest injury without symptomatology.

....

So, this was a crush injury according to the description. It took a long time to heal. We had three to four months before this woman could actually get back to her regular job. That is not like a simple bruise. That is a way more significant injury. So, what we have is some permanent scarring in the hand.

Dr. Boals opined that the plaintiff has a 10 percent permanent impairment to the left upper extremity.

### ANALYSIS

The plaintiff sustained a rather severe crush injury to her left hand. When she returned to work, she was not able to do much with her left hand. This was confirmed by one of her fellow employees. At trial the plaintiff testified as follows:

- Q. How would you compare your left hand to your right hand now?  
A. My left hand, it don't have that much grip. Because ever since that when the -- the -- my finger -- my two fingers got twisted in there, my two other, they are -- is down a lot. Like when you make a knuckle, these two is lower than these two. So it's put -- Like when I do grab something, it's pulling on the top of my -- on top of my hand.  
Q. Where does it pull?  
A. Where these knots are. It pulls right there. So I don't really even try to even do anything with my left hand.

Dr. Boals testified that he felt that the plaintiff was giving maximum effort in the grip strength testing and that she was not embellishing her injury.

Under the standard of review in workers' compensation cases, the reviewing court is not bound by a trial court's factual findings, but instead conducts an independent examination to determine where the preponderance of the evidence lies. Cleek v. Wal-Mart Stores, Inc., 19 S.W.3d 770, 773 (Tenn. 2000). However, there is a presumption of correctness of the findings of the trial court unless the preponderance of the evidence is otherwise. Seals v. England/Corsair Upholstery Mfg. Co., Inc., 984 S.W.2d 912, 915 (Tenn. 1999). The trial court saw and evaluated testimony of live witnesses and weighed the testimony of the deposition witnesses. Based upon our independent, de novo review of the record in this case, and giving deference to the trial court on issues of credibility, we conclude that the trial court's findings were not contrary to the preponderance of the evidence presented.

The decree of the chancery court is affirmed. Costs are assessed against the defendant.

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WIL V. DORAN, SPECIAL JUDGE

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**JUDGMENT**

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs on appeal are taxed to the Defendant/Appellant, Kaiser Aluminum & Chemical Corporation, d/b/a Tennialum, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM