

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT NASHVILLE  
August 26, 2002 Session

**HOWARD R. SULLINS, JR. v. WINN'S PRECISION, INC., ET AL.**

**Direct Appeal from the Chancery Court for Wilson County  
No. 00317 C. K. Smith, Chancellor**

---

**No. M2001-02625-WC-R3-CV - Mailed - October 11, 2002  
Filed - November 12, 2002**

---

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. This is a carpal tunnel syndrome complaint involving the plaintiff's right arm. He had previously suffered a ruptured biceps tendon involving his right arm, and returned to work after successful surgery. At the time of trial he was still employed and had not been treated for carpal tunnel syndrome for eighteen months. The trial judge found that the plaintiff had a vocational disability of 50 percent to his right arm. We affirm.

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

WILLIAM H. INMAN, SR. J., delivered the opinion of the court, in which ADOLPHO A. BIRCH, JR., J. and JOE C. LOSER, SP. J., joined.

Terry Lee Hill, Nashville, Tennessee, for the appellants, Wynn's Precision, Inc. and ITT Hartford Specialty Risk Service.

William Edward Farmer, Lebanon, Tennessee, for the appellee, Howard R. Sullins, Jr.

**MEMORANDUM OPINION**

**I.**

This is a carpal tunnel syndrome case. The trial court found that as a result of repetitive arm movements the plaintiff sustained a job-related injury resulting in a 50 percent disability to his right arm.

The defendant appeals, insisting that the evidence does not support the finding or the award. Our review is *de novo* on the record accompanied by a presumption of correctness unless the preponderance of the evidence is otherwise. Rule 13(d) Tenn. R. App. P.; Tenn. Code Ann. § 50-6-225(e)(2); *Stone v. City of McMinnville*, 896 S.W.2d 548 (1995).

## II.

On August 24, 1999, the plaintiff suffered an undisputed injury to his right arm in the nature of a ruptured biceps tendon. He was surgically treated by Dr. Roy Terry and his claim for workers' compensation benefits was acknowledged and paid. The judgment approving settlement provided "this compromise and settlement does not include plaintiff's claims for injury to his right arm for carpal tunnel syndrome."

The plaintiff returned to work on November 1, 1999 as a press operator. He had previously to his muscle injury experienced a degree of numbness and tingling in his right arm which suggested carpal tunnel syndrome, the motivation factor for the exception referred to in the settlement agreement. The plaintiff's work involved repetitive arm motion, and the existing numbness and tingling in his arm worsened to the extent that the plaintiff's former activities were sharply curtailed although he continued to work.

## III.

### The Medical Proof

Dr. Roy Terry is an orthopedic surgeon who surgically repaired the torn muscle. He thereafter saw the plaintiff who had complaints of carpal tunnel syndrome in his right arm, and was of the opinion, stated to the plaintiff, that the carpal tunnel syndrome was non-existent.

Dr. Richard Fishbein, an orthopedic surgeon, was employed by plaintiff's counsel to conduct an independent examination of the plaintiff on March 6, 2001. According to Dr. Fishbein, the plaintiff was still complaining of "weakness, burning, waking up, dropping objects with his right upper extremity." His examination revealed a positive Phalen's test, which is a nerve compression sign, relative weakness of the right arm, grip strength right as compared to the left. His diagnosis was right nerve involvement consistent with right carpal tunnel syndrome, with an 8 percent impairment.

## IV.

The trial court found that the plaintiff "has a vocational disability to his right extremity in the amount of 50 percent" and ordered the benefits paid in a lump sum. The defendant argues that the evidence does not support a finding of carpal tunnel syndrome because the plaintiff continued to work at his regular job and had not been treated for carpal tunnel for eighteen months at the time of trial in September 2001. Alternatively, the plaintiff insists that if the finding is properly supported, the award is excessive in light of the fact that the plaintiff could not perform the duties of his job if

his right arm was 50 percent vocationally disabled.

It was proper for the trial court to consider all of the pertinent factors involved in the assessment of vocational impairment: the employee's age, education, skills, job opportunities. Tenn. Code Ann. § 50-6-241(c); *Hill v. Royal Ins. Co.*, 937 S.W.2d 873 (Tenn. 1996). Significantly, it is settled law in this jurisdiction that the trial judge is not obligated to accept the medical opinion of one physician over another. *Orman v. William Sonoma, Inc.*, 803 S.W.2d 672 (Tenn. 1991). We are unable to find that this evidence preponderated against the finding of 50 percent vocational disability to the plaintiff's right arm.

The defendant objects to the lump sum award. The trial judge made an objective finding that the plaintiff could manage his funds competently. The authority of the court is essentially discretionary, and there is no showing that the trial judge abused his discretion in ordering a lump-sum payment. *See, Edmonds v. Wilson County*, 9 S.W.3d 106 (Tenn. 1999).

The appellee complains of the refusal of the appellants to reimburse him a portion of a mediation fee. The record is insufficient to explore this issue.

The judgment is affirmed at the costs of the appellants.

---

WILLIAM H. INMAN, SENIOR JUDGE

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

**HOWARD R. SULLINS, JR. v. WINN'S PRECISION, INC., ET AL.**

**Chancery Court for Wilson County  
No. 00317**

---

**No. M2001-02625-WC-R3-CV - Filed - November 12, 2002**

---

**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 will be paid by the appellants, Wynn's Precision, Inc. and ITT Hartford Specialty Risk Service, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM