

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

AT JACKSON
(April 18, 1996 Session)

TERESA DAVIS,)	HENRY CIRCUIT
)	
Plaintiff-Appellee,)	Hon. Julian P. Guinn,
)	Judge
v.)	
)	No. 02S01-9512-CV-00125
TECUMSEH PRODUCTS COMPANY,)	
)	
Defendant-Appellant.)	

FILED

June 11, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

For Appellant:

David F. Hessing
Hessing, Ventimiglia & Swayne
Paris, Tennessee

For Appellee:

Art D. Wells
Hill Boren P. C
Jackson, Tennessee

MEMORANDUM OPINION

Members of Panel:

Lyle Reid, Associate Justice, Supreme Court
John K. Byers, Senior Judge
Joe C. Loser, Jr., Special Judge

AFFIRMED

Loser, Judge

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. section 50-6-225(e)(3) for hearing and reporting of findings of fact and conclusions of law. The only issue is the extent of the claimant's permanent partial disability. The panel concludes that the award of benefits on the basis of forty percent to both arms should be affirmed.

The claimant, Teresa Davis, is thirty-five and has a tenth grade education. As noted by the trial judge, she has obvious intellectual limitations and her only working experience is in the field of manual labor. At the time of the trial she had not been able to find employment within her limitations.

She gradually developed bilateral carpal tunnel syndrome at work and was referred to Dr. Glenn Bamett, who performed surgical releases on both arms and, when she continued to have pain when attempting to work, referred her to occupational therapy. He assessed her permanent impairment at five percent to each upper extremity.

Her attorney referred her to Dr. Joseph Boals, who assessed her permanent impairment at ten percent to each upper extremity based on loss of grip strength following bilateral carpal tunnel release surgery. Dr. Ray Hester opined that she would not be able to perform repetitive work in the future. Other medical evidence confirmed the permanency of her injury.

Appellate review is de novo upon the record of the trial court, accompanied by a presumption of correctness of the findings of fact, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. section 50-6-225(e)(2). Considerable deference is accorded the trial judge's findings with respect to the credibility of witnesses who testify in person, as well as the weight and value of such testimony. Landers v. Fireman's Fund Insurance Company, 775 S.W.2d 355, 356 (Tenn. 1989). In determining a claimant's permanent industrial disability, the trial court should consider, in addition to the extent of medical impairment, many factors, including job skills, education, age, training, duration of disability and local job opportunities for the disabled. Worthington v. Modine Manufacturing Co., 798 S.W.2d 232, 234 (Tenn. 1990).

The trial judge expressly found that there are few work opportunities for the claimant in her disabled condition, contrary to the contention of the employer that there are numerous jobs available to her. The evidence fails to preponderate against that finding or the finding that she will retain a permanent impairment of forty percent to both arms.

The judgment of the trial court is accordingly affirmed. Costs on appeal are taxed to the defendant-appellant.

Joe C. Loser, Jr., Judge

CONCUR:

Lyle Reid, Associate Justice

John K. Byers, Judge