

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

FILED

June 20, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

DONNA F. PEACE,)
)
Plaintiff/Appellant)
)
v.)
)
SOUTHERN HOME CARPET, INC.,)
)
Defendant/Appellee)

KNOX CHANCERY
NO. 03S01-9512-CH-00134
Hon. H. David Cate

For the Appellant :

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NationsBank Ctr.
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For the Appellee:

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507 S. Gay St.
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MEMORANDUM OPINION

Members of Panel:

E. Riley Anderson, Chief Justice
John K. Byers, Senior Judge
William H. Inman, Senior Judge

AFFIRMED

INMAN, Senior 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. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

The issue on appeal is whether the Chancellor correctly denied the motion of the appellant that her award of benefits should be paid in lump sum.

The husband of appellant suffered a fatal heart attack on February 1, 1995. For his death, she sought workers' compensation benefits as the sole surviving beneficiary, and the settlement of her claim, \$382.79 weekly for 400 weeks, was approved by the Chancellor who declined to approve a lump sum payment. Accrued benefits were \$8,200.00, timely paid.

The plaintiff is 45 years old, a high school graduate, and is currently employed as a dental assistant, earning net pay of \$1,300.00 monthly. She has no children and is the sole support of her disabled mother for whose care she pays \$866.67 monthly. Her disposable income from all sources (inclusive of her mother's SSI of \$400.00) is \$3,358.76. The balance owing on her home mortgage is \$45,000.00, which she proposed to discharge; her monthly living expenses, including a mortgage payment and the expenses of her mother's care, are about \$2,900.00.

The Chancellor observed that this is not a case where periodic payments are not needed as a substitute for wages. *See Ponder v. Manchester Housing Auth.*, 870 S.W.2d 282 (Tenn. 1994).

TENN. CODE ANN. § 50-6-279 authorizes lump sum payments of awards, with instructions to the trial court to consider the best interest of the employee together with his ability to wisely manage and control the award. The Chancellor expressly found that a lump sum would not be in the best interest of the plaintiff, whose ability to manage a large sum was questionable since she could not account for 25% of the accrued payments and has failed to file income tax returns for the last five (5) years.

We fully concur in the Chancellor's judgment and find no abuse of discretion. *Henson v. City of Lawrenceburg*, 851 S.W.2d 809, 813-14 (Tenn. 1993).

The judgment is affirmed at the costs of the appellant.

William H. Inman, Senior Judge

CONCUR:

E. Riley Anderson, Chief Justice

John K. Byers, Senior Judge