

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

**FILED**

November 10, 1998

Cecil W. Crowson  
Appellate Court Clerk

HENRY A. SHERRILL,	)	
	)	
Plaintiff/Appellee	)	GILES CHANCERY
	)	
v.	)	NO. 01S01-9802-CH-00035
	)	
PULASKI RUBBER COMPANY,	)	HON. JIM T. HAMILTON,
	)	CHANCELLOR
Defendant/Appellant	)	

**For the Appellant:**

Richard C. Mangelsdorf, Jr.  
Leitner, Williams, Dooley &  
Napolitan, PLLC  
2300 First American Center  
Nashville, TN 37238

**For the Appellee:**

Raymond W. Fraley, Jr.  
Johnny D. Hill, Jr.  
205 East Market Street  
P.O. Box 572  
Fayetteville, TN 37334

**MEMORANDUM OPINION**

**Members of Panel:**

Justice William M. Barker  
Senior Judge John K. Byers  
Special Judge Robert E. Corlew, III

## OPINION

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 trial judge found the plaintiff was permanently disabled and awarded a lump sum judgment of \$81,953.20 on November 3, 1997.

The defendant says the record does not support the finding that the lump sum award is proper because the record fails to show that the lump sum award is in the plaintiff's best interest or that he can wisely manage the lump sum payment.

We remand this case to the trial court for further proceedings.

The record in this case is sparse on the issue of a lump sum payment. The plaintiff testified he wished to pay off his mortgage and invest any remaining portion of the award.

On appeal, the plaintiff's brief presents a mathematical computation showing how much the plaintiff would save if he payed off his mortgage. This was not presented at trial.

The trial court made no finding of whether a lump sum award was in the plaintiff's best interest. This brings the case in line with the case of *Huddleston v. Hartford Accident & Indem. Co.*, 858 S.W.2d 315 (Tenn. 1993), where an issue of a lump sum award was raised. The Supreme Court said in that case: "What is missing from the trial court's order, as well as from the record, is a determination that full commutation under these circumstances is in the injured worker's *best interest*, as required by T.C.A. § 50-6-229(a), as amended (1990)." *Id.* at 318.

In *Huddleston*, the Supreme Court remanded the case to the trial court for further proceedings to determine what amount, if any, should be commuted and to determine if the plaintiff could manage the commuted amount. Further, the Supreme Court noted that the trial judge may well consider, if a finding of a lump sum is made, how to insure that the sum will be applied in the manner the plaintiff asserts it would be used.

We remand this case to the trial court for such proceedings as are necessary consistent with this opinion.

The costs of this appeal are taxed to the plaintiff and the defendant.

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John K. Byers, Senior Judge

CONCUR:

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William M. Barker, Justice

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Robert E. Corlew, III, Special Judge

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Hon. Jim T. Hamilton  
Judge

No. 01S01-9802-CH-00035

REMANDED

JUDGMENT ORDER

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 equally by the Plaintiff and Defendant, for which execution may issue if necessary.

IT IS SO ORDERED ON November 10, 1998.

PER CURIAM