

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

(June 29, 1998 Session)

FILED
October 26, 1998
Cecil W. Crowson
Appellate Court Clerk

JAMES W. SMITH,)	WILSON CRIMINAL
)	
Plaintiff/Appellee)	NO. 01S01-9712-CR-00278
)	
v.)	HON. J. O. BOND,
)	JUDGE
WILSON COUNTY CONCRETE)	
COMPANY, INC. and AETNA)	
CASUALTY AND SURETY)	
COMPANY,)	
)	
Defendants/Appellants)	

For the Appellant:

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For the Appellee:

Hugh Green
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Lebanon, TN 37087

MEMORANDUM OPINION

Members of Panel:

Justice Frank F. Drowota, III
Senior Judge William H. Inman
Special Judge Joe C. Loser, Jr.

MEMORANDUM 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.

In January, 1997, the Supreme Court affirmed a judgment that the plaintiff was totally and permanently vocationally disabled, with benefits awarded accordingly.

The plaintiff returned to the trial court complaining that the judgment was not being satisfied in a timely way. He alleged that the accrued benefits were not paid timely, and that his "weekly checks" were sporadic. To correct this problem he filed a motion to require the defendant to pay the entire judgment or, alternatively, "that the Court determine the interest as the parties were in dispute as to the amount and the method by which it should be figured."

The trial court ordered the defendant to pay interest calculated on the entire amount of the judgment, i.e., on the unaccrued portion of the judgment. The defendant appeals, insisting that interest cannot be assessed on installments not due. We agree, since the precise issue has heretofore been adjudicated by the Supreme Court.

Tennessee Code Annotated § 50-6-225(h) provides in part:

(h)(1) If the judgment or decree of a court is appealed pursuant to subsection (e), interest on the judgment or decree shall be computed from the date that the judgment or decree is entered at an annual rate of interest five (5) percentage points above the average prime loan rate for the most recent week for which such an average rate has been published by the board of governors of the federal reserve system on the total judgment awarded by the supreme court.

(2) Total judgment awarded is computed by the total number of weeks multiplied by the benefit rate without any reduction.

This section was construed in *West American Insurance Company v. Montgomery*, 861 S.W.2d 230 (Tenn. 1993), wherein the employee was awarded a judgment for benefits accrued and an additional 89 weeks of unaccrued permanent partial disability to be paid in future installments. The employee argued that he was entitled to interest on the entire judgment, including installments not then due.

The Supreme Court rejected the employee's argument, holding that Tenn. Code Ann. § 50-6-225(h) "must be considered in conjunction with other sections of the Workers' Compensation Law," and that a party in whose favor a judgment is entered is not entitled to interest on the entire judgment "unless he is entitled to have the use of the proceeds of the judgment from and after the date the judgment was entered."

The Court concluded that an employee who has been awarded a money judgment consisting of future installments is not entitled to interest on that part of the judgment represented by installment payments until the installment is due.

The defendant is required to pay interest only on the accrued, owing amounts, susceptible of ready calculation.¹

The judgment is reversed at the costs of the appellee. The case is remanded to the trial court with instructions to calculate the interest due on the accrued payments, and, if necessary, to issue a writ of execution therefor.

William H. Inman, Senior Judge

¹If the parties cannot agree as to the average prime loan rate for the week immediately preceding the filing of this opinion a hearing must be held to determine such rate.

CONCUR:

Frank F. Drowota, III, Justice

Joe C. Loser, Jr., Special Judge

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<i>JAMES W. SMITH</i>	}	<i>FRANKLIN CHANCERY</i>
	}	<i>No. Below 94-358</i>
<i>Plaintiff/Appellee</i>	}	
	}	<i>Hon. J. O. BOND</i>
<i>vs.</i>	}	<i>Judge</i>
	}	
	}	<i>No. 01S01-9712-CR-00278</i>
<i>WILSON COUNTY CONCRETE</i>	}	
<i>COMPANY, INC. AND AETNA</i>	}	
<i>CASUALTY AND SURETY CO.</i>	}	
	}	
<i>Defendants/Appellants</i>	}	<i>REVERSED</i>

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 by Plaintiff/Appellee, for which execution may issue if necessary.

IT IS SO ORDERED on October 26, 1998.

PER CURIAM