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

FILED

September 3, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

JOHN MATTHEWS,	)	
	)	
Plaintiff/Appellee,	)	HENDERSON CHANCERY
	)	
v.	)	No. 02S01-9809-CH-00085
	)	
AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY	)	HONORABLE JOE C. MORRIS
	)	
Defendant/Appellant.	)	

For the Appellant:

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M E M O R A N D U M O P I N I O N

Members of Panel:

Justice Janice M. Holder
Senior Judge L. T. Lafferty
Special Judge J. Steven Stafford

REVERSED

LAFFERTY, Senior Judge

OPINION

This workers' compensation appeal was referred to the Special Workers' Compensation Appeals Panel of the Supreme Court pursuant to Tenn. Code Ann. §50-6-225(e)(3) (Supp. 1998) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

This case was tried on June 25, 1998. The trial court found that the plaintiff suffered a work-related injury on June 27, 1997, and awarded the plaintiff forty-five percent permanent partial disability to the body as a whole. The court stated that the plaintiff's present disability, whether due to a heart attack or from heart disease, was caused by the exertion and strain of lifting fifty-pound buckets in 90-degree weather in the course of his employment duties. The defendant, American Manufacturers Mutual Insurance Company, has appealed the trial court's decision. After a careful review of the record, we find that the judgment of the trial court must be reversed.

At the time of trial, the plaintiff, John Matthews, testified that he was 47 years of age, had a bachelors degree in archeology, and had completed approximately one-half of his studies toward a masters degree in anthropology and archeology. Before pursuing his studies in archeology, the plaintiff did carpentry work, served in the military, and was employed as a service writer for a tire company. After receiving his degree in archeology, the plaintiff was employed by Brockington and Associates, the defendant's insured, as an archeologist from February of 1997 until the alleged injury in June of 1997. At the time of trial, he was working as an instructor at a job-training facility for the handicapped.

On Friday, June 27, 1997, the plaintiff was working outside with his supervisor at the site of a proposed guitar company in a heat index of 104 degrees. Their job was to uncover archeological artifacts by removing five-gallon buckets of mud, weighing forty to fifty pounds each, from a six-foot deep trench. The plaintiff recalled that he was perspiring heavily. At approximately 3:00 p.m., the plaintiff felt a tightness with a little pain below his collarbone and was short of breath. Thinking that it was the heat, he took breaks to cool off and continued to work after drinking some water. He testified that he had no prior history of chest pain or heart disease. He was able to finish the day's work, and the chest pain eased by approximately 6:00 p.m. Over the weekend, the plaintiff worked in the yard

and around the house but continued to have chest tightness and pain if he got hot. On Monday, June 30, 1997, the plaintiff had a light day at work and experienced no problems. On the way to work Tuesday morning, July 1, the plaintiff began to have chest tightness that radiated down his shoulder into his elbow. He told his fiancee, who was riding with him, that he thought he was having a heart attack. He felt he could not stop on the crowded freeway and, instead, drove to his office downtown. Guy Weaver, vice-president of Brockington, saw the plaintiff's condition and took him to the VA Hospital emergency room. On July 14, the plaintiff underwent bypass surgery for coronary artery disease. Approximately two weeks after leaving the hospital, the plaintiff asked Mr. Weaver if he could return to work in a non-field capacity but was told to wait. Although the plaintiff was released by his doctor in October, no effort was made to return him to work at Brockington as late as December of 1997.

Since leaving Brockington, the plaintiff had worked a total of nineteen days as an archeologist. He testified that he had applied for a number of other jobs but felt that the employers were reluctant to hire him after learning of his medical problems. He finally obtained full-time employment at a handicapped training facility in April of 1998. The plaintiff stated that he has worked outside in the heat since his heart condition surfaced but still experiences chest tightness, which requires medication. In addition, he suffers from occasional chest pain and swelling in his left leg, where a vein was harvested for the bypass, and has difficulty walking long distances or standing for prolonged periods of time. The plaintiff also stated that his stamina is not like it was before the incident, and he continues to experience shortness of breath.

Bryan Collins, the supervising archeologist working with plaintiff at the time of the June 27 incident, corroborated the plaintiff's testimony concerning the circumstances surrounding the plaintiff's condition. He testified that he and the plaintiff were doing strenuous work in extreme heat and humidity and that the plaintiff experienced chest pain and breathing difficulty around 3:00 p.m. Mr. Collins was concerned that the plaintiff was having a heart attack and tried to convince him to go to a hospital. Because the plaintiff continued to have difficulties working after taking a break, Mr. Collins told him to sit in the truck and finished most of the work himself before quitting early around 4:30 p.m.

Medical expert testimony was received at trial by depositions of two doctors. Dr. Pervis Milnor, a cardiologist, reviewed the medical records from the VA Hospital and examined the plaintiff on February 3, 1998, at the request of plaintiff's attorney. Dr. Milnor testified that the plaintiff gave a history of having developed chest pains on Friday, June 27, 1997, while working at the dig site in a heat index of 104 degrees. The plaintiff told Dr. Milnor that his chest pain had recurred several times over the weekend, but he did not associate this with exertional activity. Monday, June 30, was uneventful, but severe chest pain sent the plaintiff to the VA Hospital on Tuesday morning, July 1. The plaintiff stated that he was told at the VA Hospital that he had suffered a heart attack but was allowed to go home at his own request to make arrangements for his child.[1] A stress test was subsequently performed on July 3, and a cardiac catheterization was performed on July 7. The tests revealed multi-vessel coronary artery disease, which required triple bypass surgery. The plaintiff denied any history of chest pain prior to the episode in the ditch. A physical exam revealed that the plaintiff was slightly obese but showed no significant abnormalities in his heart and lungs. Dr. Milnor noted a mild elevation of the plaintiff's cholesterol and blood pressure, which Dr. Milnor did not find to be significant risk factors. The fact the plaintiff smoked cigarettes put him at risk for coronary disease, but Dr. Milnor classified him as an average risk patient for heart surgery. Laboratory tests performed by Dr. Milnor revealed a slightly elevated serum cholesterol, good oxygen saturation before and after exercise, and normal chest films, but the electrocardiogram showed a loss of R wave activity in the anterior myocardium, suggesting a remote anterior myocardial infarction.[2] Based on the testing, plaintiff's history of chest pain, and the medical records, it was Dr. Milnor's opinion that the plaintiff had sustained a myocardial infarction that was precipitated by his job activities. Dr. Milnor explained:

> When you take an individual in his age group with his smoking history and subject them to a dehydrating oppressive, hot type of environment such as he was in, you both stress that individual with the physiological abnormalities that occur with stress, but you also substantially reduce the body water and

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[1]The records from the VA Hospital indicate that plaintiff refused hospitalization even after being informed that he could have "an acute myocardial event and possibly death" if he left the hospital.

[2]Dr. Milnor explained that a myocardial infarction is the death of heart tissue. Dr. Anderson explained that a myocardial infarction is a heart attack in layman's terms.

> the circulating blood volume, and both of these tend to relate to a cascade of events which often can culminate and eventually in a vascular occlusion or an occlusion of a blood vessel or a reduction of blood supply to a heart muscle sufficient to cause necrosis or death of that heart muscle.
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> * * * *
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> In an individual who has perfectly normal blood vessels and otherwise is in good shape, you're not likely to get in any vascular occlusive disease . . . but if you take an individual who has prior disease of his coronary arteries, and we would certainly feel that this man was a candidate for that sort of thing, then exposure to those pathological consequences could be expected to cause occlusion of the blood vessel and inadequate blood supply to heart muscle or death of heart muscle.
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> [W]hen a person is dehydrated, what is lost out of the blood vessels is basically the water and some of the salt out of the blood vessels. What is retained within the blood vessels are the blood cells and the blood platelets so that the blood becomes thick and viscous and sluggish, and the way of blood flow -- particularly in the inner areas of the body, the rate of blood flow is reduced and there tends to be activation of the platelets with a tendency to agglutinate -- to agglutination by the little adhesive bodies in the blood, the platelets, and with damaged blood vessels, you have the stage set for the development of platelet thrombi or platelet occlusions, and then that leading on to a heart attack as we have described.

Dr. Milnor stated his opinion that the plaintiff's exposure to the dehydrating environment at work led to occlusive vascular disease that necessitated plaintiff's bypass surgery. It was Dr. Milnor's opinion that the plaintiff suffered a stuttering heart attack[3] brought on by his prolonged exposure to the heat and dehydration. Using the Fourth Edition of the AMA Guidelines, Dr. Milnor gave the plaintiff a twenty percent impairment rating as a Class 2 coronary heart disease patient. Dr. Milnor based the rating on an assumption that plaintiff had suffered a myocardial infarction and the fact that the catheterization revealed sufficient heart disease to require bypass surgery. He stated that the plaintiff's angina alone would also support an award under Class 2 criteria. Dr. Milnor opined that a patient with coronary artery disease should be restricted from heavy manual labor, severe emotional stress, and high temperatures. Dr. Milnor testified that contributing

[3]Dr. Milnor explained that a heart attack can either occur over a short period of time or can be what is called a "stuttering myocardial infarction," in which there is progressive destruction of heart tissue over several days.

factors, such as plaintiff's smoking and high cholesterol, could have made cardiac surgery necessary in the future, but it was his opinion that the events of June 27 aggravated the pre-existing coronary artery disease. According to Dr. Milnor, the tests performed at the VA Hospital were not done in a manner that would show whether the plaintiff had a heart attack before or after July 1.[4] He stated that none of the objective findings from his testing or the VA records showed that the coronary bypass surgery was caused by the June 27 events, nor could he say whether the heart damage occurred on Friday or Tuesday or any other specific time in the past.

Dr. Keith Anderson, another cardiologist, saw the plaintiff on May 18, 1998, for an independent examination requested by the defendant's attorney. The plaintiff gave substantially the same version of the events surrounding his heart disease and surgery as he gave to Dr. Milnor. The plaintiff also indicated a history of hypertension, hypercholesterolemia, cigarette smoking, and a family history of atherosclerotic heart disease. Dr. Anderson reviewed the medical records and test results from the VA Hospital and found no evidence that the plaintiff had suffered a heart attack (myocardial infarction). To the contrary, Dr. Anderson felt very strongly that the plaintiff had not suffered a heart attack on June 27, because there was documented evidence that the plaintiff had not sustained any damage to his heart. The plaintiff's CK test[5] was negative on July 1, and the catheterization report showed no disruption of the coronary artery or pending infarction on July 7.[6] The plaintiff was also able to complete a stress test on July 3 without precipitating

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[4]Dr. Milnor explained that a blood test measuring the plaintiff's creatine kinase (CK) level was performed at the VA Hospital, along with a stress test, serial electrocardiograms (EKGs), and cardiac catheterization. Creatine kinase is an enzyme found in all muscles in the body, including the heart, and the "core CK" test, such as the test performed at the VA, is a non-specific test. This was also referred to as a "CPK" test by Dr. Anderson. Dr. Milnor stated that the treadmill stress test has limited sensitivity and specificity in assessing cardiac impairment.

[5]Dr. Anderson stated that there was no finding in the VA Hospital records for the CKMB test, which is a more specific test than the CK alone. A CKMB is used to determine if an abnormal CK level is from injury to the heart muscle as opposed to other muscles in the body. However, Dr. Anderson explained that the plaintiff's total CK level would have been significantly elevated on July 1 if there was injury to his heart muscle, but the plaintiff's CK level was normal (56 U/L in a normal range of 30-145 U/L).

[6]Dr. Anderson explained that had the plaintiff suffered an event on June 27, 1997, evidence that the disease had been advanced could have been seen by identifying a plaque rupture, a blood clot in the coronary artery, or slow flowing blood in the coronary artery. None of these were seen in the cardiac catheterization.

myocardial injury. Dr. Anderson explained that a person's CK level remains significantly elevated ten to fourteen days after an infarction, and the fact that the plaintiff's CK level was normal on July 1 essentially excluded the possibility that a heart attack had occurred in the recent past. An EKG performed on April 22, 1998, showed a slight, insignificant abnormality in one of the leads but was otherwise unremarkable.

It was Dr. Anderson's opinion that the working conditions of June 27, 1997, did not cause any progression of the plaintiff's underlying disease or injury to his heart. According to Dr. Anderson, the plaintiff was suffering from angina on June 27 caused by his coronary artery disease. Dr. Anderson stated his opinion that the plaintiff's bypass surgery was the result of the advanced disease, which was present before the June 27 incident. He placed the plaintiff in the Class 2 category under the Fourth Edition of the AMA Guidelines and gave him a ten percent impairment rating for the coronary artery disease but would not give him an impairment rating related to the June 27, 1997, incident.[7] The impairment rating was based on the plaintiff's previous history of angina and the fact that the plaintiff was asymptomatic in May of 1998 while performing daily activities and upon physical exertion. Dr. Anderson did not place restrictions on the plaintiff's activities, other than his smoking.

Dr. Anderson testified that moderate lifting in extremely hot weather and perspiring could cause a heart attack in a predisposed person, although he did not know how likely that was. He also agreed that an angina attack could be precipitated by working in heat. He stated that, if he had come to the conclusion that the plaintiff had suffered a heart attack, the plaintiff's job activities on June 27 could have precipitated the attack; however, he stated that "[t]here was nothing that he [the plaintiff] did on that job that advanced his disease. He just happened to be on the job when he first had angina."

The standard of review of factual issues in workers' compensation cases is de novo upon the record of the trial court with a presumption of correctness, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2) (1991 & Supp. 1998); Henson v. City of Lawrenceburg, 851 S.W.2d 809, 812 (Tenn. 1993). Under this standard, we are required to conduct an in-depth examination of the trial court's

[7]Dr. Anderson agreed that a Class 2 impairment rating can be given for angina pectoris alone without a myocardial infarction.

findings of fact and conclusions of law to determine where the preponderance of the evidence lies. See Thomas v. Aetna Life & Cas. Co., 812 S.W.2d 278, 282 (Tenn. 1991) (quoting Humphrey v. David Witherspoon, Inc., 734 S.W.2d 315 (Tenn. 1987); King v. Jones Truck Lines, 814 S.W.2d 23, 25 (Tenn. 1991). In making such a determination, this Court must give considerable deference to the trial judge's findings regarding the weight and credibility of any oral testimony received. Townsend v. State, 826 S.W.2d 434, 437 (Tenn. 1992); Thomas, 812 S.W.2d at 283. However, the determination of factual issues in the present case involves medical testimony derived solely from depositions, so all impressions regarding weight and credibility must be drawn from the contents of the documents, rather than an evaluation of live witnesses. Thomas, 812 S.W.2d at 283. Therefore, this Court may draw its own conclusions about the weight, credibility, and significance of such testimony. Seiber v. Greenbrier Indus., Inc., 906 S.W.2d 444, 446 (Tenn. 1995).

It is well established that the plaintiff in a workers' compensation case has the burden of proving causation and permanency of his injury by the preponderance of the evidence using expert medical testimony. See Thomas, 812 S.W.2d at 283; Roark v. Liberty Mutual Ins. Co., 793 S.W.2d 932, 934 (Tenn. 1990). However, such testimony is not evaluated in total isolation but must be considered in conjunction with the employee's testimony as to how his injury occurred and his subsequent physical condition. Thomas, 812 S.W.2d at 283. In determining where the preponderance of the evidence lies, this Court may choose which expert's view to believe among differing opinions and may consider the experts' qualifications, circumstances of their examination, what information was available to them, and how important that information was to other experts. See Orman v. Williams Sonoma, Inc., 803 S.W.2d 672, 676 (Tenn. 1991).

Although absolute certainty is not required to prove causation, the medical testimony connecting an injury to work-related activity must not be so uncertain or speculative that assigning liability to the employer would be arbitrary or only a mere possibility. Livingston v. Shelby Williams Indus., Inc., 811 S.W.2d 511, 515 (Tenn. 1991) (quoting Tindall v. Waring Park Ass'n, 725 S.W.2d 935, 937 (Tenn. 1987)).

To constitute sufficient medical proof to establish permanency, the expert witness

must state his opinion in language that means that the factors in favor of a permanent disability outweigh those to the contrary. Singleton v. Procon Products, 788 S.W.2d 809, 811-12 (Tenn. 1990). Words that mean, in essence, that there is only a likelihood or just a possibility of the events happening are not sufficient to carry the burden in favor of permanency. See id. at 811.

The defendant presents two issues on appeal: (1) whether the trial court erred in finding that the plaintiff suffered a work-related permanent disability, and (2) whether the award of forty-five percent vocational disability is excessive. After careful review of the record, we find that the evidence preponderates against the trial court's finding of a compensable disability from the June 27, 1997, incident. Therefore, the judgment of the trial court must be reversed.

The defendant argues that the medical testimony does not establish that the plaintiff had a heart attack or coronary artery disease which could be connected to his work activities. We agree. In order for plaintiff's disability to be compensable, it would have to result either from occupational disease that arose out of and in the course of employment, a heart attack precipitated by employment, or by the aggravation of pre-existing coronary artery disease that can be connected to job activities. See Krick v. City of Lawrenceburg, 945 S.W.2d 709, 713 (Tenn. 1997); Stone v. City of McMinnville, 896 S.W.2d 548, 552 (Tenn. 1995); King v. Jones Truck Lines, 814 S.W.2d 23, 27 (Tenn. 1991) (quoting Swift & Co. v. Howard, 186 Tenn. 584, 212 S.W.2d 388, 391 (1948)).

The Supreme Court in Krick set out the criteria found in Tenn. Code Ann. § 50-6-301 for determining whether the plaintiff's coronary artery disease is an accidental injury that arose out of and in the course of employment as follows:

> (1) the disease can be determined to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment, (2) it can be fairly traced to the employment as a proximate cause, (3) it has not originated from a hazard to which the worker would have been equally exposed outside of the employment, (4) it is incidental to the character of the employment and not independent of the relation of employer and employee, (5) it originated from a risk connected with the employment and flowed from that source as a natural consequence, though it need not have been foreseen or expected prior to its contraction, and (6) there is a direct causal connection between the disease and conditions under which the work is performed.

Krick, 945 S.W.2d at 713. Applying the criteria to the facts in this case, we find that the medical evidence[8] does not establish a causal connection between plaintiff's coronary artery disease and his work activities on June 27 or any other time in his employment. The objective tests relied on by both doctors indicated that plaintiff's coronary artery disease was advanced and, therefore, existed long before June 27. The plaintiff had several risk factors, including elevated cholesterol, hypertension, and a history of smoking, that contributed to his disease, and neither doctor stated an opinion that the coronary artery disease itself was job-related. Therefore, the plaintiff's coronary artery disease developed independently of his employment and is not an accidental injury under our statutes.

Additionally, the medical evidence preponderates against a finding that the plaintiff's disability was attributable to a work-related heart attack or aggravation of the pre-existing coronary artery disease. The key to recovery in a case where it is alleged that some physical activity or exertion caused a heart attack is whether a disabling attack was precipitated by employee's job activities. Krick, 945 S.W.2d at 713. It is also well established in this jurisdiction that an employer takes an employee as he is and assumes the risk of having a weakened condition aggravated by an injury that would not ordinarily hurt a normal, healthy person. King v. Jones Truck Lines, 814 S.W.2d 23, 27 (Tenn. 1991) (quoting Swift & Co. v. Howard, 186 Tenn. 584, 212 S.W.2d 388, 391 (1948)). See also Sweat v. Superior Indus., Inc., 966 S.W.2d 31, 33 (Tenn. 1998). If the employment excites or aggravates a pre-existing condition, causing a disability, then the employer is liable. King, 814 S.W.2d at 27. However, there must be an anatomical change or actual progression of the pre-existing condition for the injury to be compensable, and an increase in pain alone is not sufficient to sustain an award of benefits. Sweat, 966 S.W.2d at 33 (citing with approval Cunningham v. Goodyear Tire & Rubber Co., 811 S.W.2d 888, 890 (Tenn. 1991)).

The plaintiff relies on the testimony of Dr. Milnor in proving that he had a heart attack brought on by the events of June 27. Dr. Milnor was definite in his opinion that the plaintiff did indeed suffer a heart attack and described in detail the cascade of events that

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[8]In reviewing the medical depositions, we note that both experts have impeccable credentials, experience, and training, and neither were treating physicians for the plaintiff. We are hesitant to completely disregard the testimony of either doctor.

could occur as a result of a person with the plaintiff's pre-existing, yet unknown, coronary artery disease working in the intense heat and dehydrating conditions at the dig site on June 27. Dr. Milnor was persuaded by the plaintiff's history of chest pain lasting over fifteen or twenty minutes, which he stated creates a presumption of damage to the heart, and his finding of a "remote" infarction on the plaintiff's EKG in February of 1998. However, there was no way for Dr. Milnor to pinpoint when the "remote" heart attack occurred or to connect the plaintiff's surgery with his job activities on June 27 using the objective test results from his office or the hospital.

Dr. Anderson, on the other hand, was just as definite that the plaintiff did not suffer a heart attack but merely had angina from his pre-existing disease. Dr. Anderson was persuaded by the blood tests and cardiac catheterization done at the VA Hospital within days after the June 27 episode, which showed that the plaintiff did not suffer a heart attack but did show advanced coronary artery disease. He disagreed with the presumption that heart tissue damage occurs with chest pain lasting fifteen or twenty minutes, which was important in Dr. Milnor's assessment. Dr. Anderson also stated that the events of June 27 did not aggravate or advance the plaintiff's underlying disease. It was his opinion that bypass surgery was a result of the plaintiff's advanced coronary artery disease and would have been necessary in any event.

In reviewing all of the medical testimony, we find that the plaintiff has failed to carry his burden of proving by a preponderance of the evidence that he suffered a heart attack as a result of his work activities on June 27, 1997. None of the tests run at the VA Hospital, during the time when a heart attack would have been evident, showed that such an injury occurred. In fact, the results of the test showed that there was no damage to the heart muscle. Additionally, none of the tests run by Dr. Milnor or Dr. Anderson indicated that a heart attack had occurred as a result of the incident at work. The surgery and other problems that the plaintiff has experienced, such as leg pain from the graft for the bypass, chest pain, and loss of stamina, are a result of pre-existing, advanced coronary artery disease that cannot be attributed to the events of June 27. We find, therefore, that the plaintiff's employment duties did not cause a heart attack.

Furthermore, the evidence preponderates against a finding that the plaintiff's

underlying coronary artery disease was advanced or aggravated by working in the heat on June 27. None of the objective tests performed at the VA Hospital shortly after the plaintiff began experiencing chest pain nor any of the tests performed by the evaluating physicians showed that the progress of the disease was affected by the plaintiff's job duties. For example, the cardiac catheterization done on July 7 at the VA Hospital showed no evidence that the underlying disease had been aggravated or advanced by the events of June 27. It appears that the plaintiff just happened to be at work when he began to feel the symptoms of his advanced heart disease, which required triple bypass surgery. The problems the plaintiff has experienced since the surgery would likely have occurred in any event, and his resulting disability from the coronary artery disease is not compensable under workers' compensation law.

The plaintiff argues that his angina alone is compensable, even without a heart attack. We disagree. Although both doctors testified that angina alone can be the basis of a disability rating under the AMA Guidelines, the disability must be caused by work-related angina to be compensable. See Krick v. City of Lawrenceburg, 945 S.W.2d 709, 714 (Tenn. 1997). The facts of this case are very similar to those in Krick, in which our Supreme Court found that the plaintiff had failed to prove that his heart disease and angina were compensable. In Krick, a police officer, with no previous history of coronary artery disease, experienced shortness of breath and chest pain after responding to a potential hostage situation. He was subsequently diagnosed with advanced coronary artery disease that required quadruple bypass surgery. An internist testified that the plaintiff had experienced angina, which is a symptom of heart disease and could be brought on by activity. A family practitioner stated that stress could cause a coronary spasm, resulting in a complete blockage of the arteries. The plaintiff's heart surgeon testified that stress was one of many factors involved in the plaintiff's coronary artery disease and assigned him a disability rating. Finally, an evaluating cardiologist who reviewed the plaintiff's medical records, test results, and the depositions of the internist and surgeon, stated his opinion that the plaintiff did not have a heart attack, but severe angina, from pre-existing coronary artery disease. He stated that, although the stress at work could have aggravated the symptoms of heart disease, i.e., angina, it was not the cause of the disease.

Id. at 711-12. After reviewing the evidence, the Court held:

> In this case, Krick did not experience a heart attack; he experienced angina, a symptom of heart disease. The angina may have been caused by the stress of the August 1993 incident; however, Krick's disability arose from the heart disease, not the chest pain. The medical proof preponderates against a finding that the heart disease was precipitated by the August 1993 incident. Thus, Krick has failed to establish the compensability of his heart disease.

Id. at 714.

As in Krick, the plaintiff in the present case experienced angina as the first symptom of his advanced coronary artery disease after a particular event at work. However, his most severe symptoms did not occur while working in the heat on Friday but during his drive to work on the following Tuesday. The medical evidence shows that, while the conditions on June 27 could have caused the disease to manifest itself through an angina attack, the plaintiff's surgery and subsequent disability arose from the pre-existing heart disease and not from the chest pain. Neither the plaintiff's heart disease nor the angina is compensable.

On our de novo review, we find that the evidence preponderates against the findings of the trial court in favor of the plaintiff. The judgment of the trial court is reversed, and the case is dismissed.

Plaintiff will pay the costs.

_____
L. T. LAFFERTY, SENIOR JUDGE

CONCUR:

_____
JANICE M. HOLDER, JUSTICE

_____
J. STEVEN STAFFORD, SPECIAL JUDGE

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

JOHN MATTHEWS,	)	
	)	HENDERSON COUNTY
PLAINTIFF/APPELLEE	)	
	)	HON. JOE C. MORRIS
v.	)	CHANCELLOR
	)	
AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY,	)	S. CT. NO. 02S01-9809-CH-00085
	)	
	)	
DEFENDANT/APPELLANT	)	

FILED

September 3, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

JUDGMENT

This case is before the Court upon motion for review pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), 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 motion for review is not well taken and should be denied; 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 John Matthews, for which execution may issue if necessary.

It is so ordered.

PER CURIAM

HOLDER, J. NOT PARTICIPATING