

IN THE SUPREME OF TENNESSEE

AT NASHVILLE

**FILED**

October 11, 1999

FRANKLIN CHANCERY  
Cecil Crowson, Jr.  
Appellate Court Clerk

ROGER LEE DAILEY

*Plaintiff/Appellee*

vs.

E Z LOADER BOAT TRAILERS, INC.  
and CONTINENTAL INSURANCE  
COMPANY

*Defendants/Appellants*

FRANKLIN CHANCERY

No. Below

Hon. Jeffrey Stewart

No. 01S01-9805-CH-00101

**AFFIRMED and 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 by defendants/appellants, for which execution may issue if necessary.*

**IT IS SO ORDERED on October 11, 1999.**

**PER CURIAM**

IN THE SUPREME COURT OF TENNESSEE

SPECIAL WORKERS' COMPENSATION APPEALS PANEL

AT NASHVILLE  
(MARCH 31, 1999 Session)

**FILED**  
October 11, 1999  
Cecil Crowson, Jr.  
Appellate Court Clerk

ROGER LEE DAILEY,	)	FRANKLIN CHANCERY
	)	
Plaintiff-Appellee,	)	Hon. Jeffrey Stewart,
	)	Chancellor.
	)	
VS.	)	01-S-01-9805-CH-00101
	)	
	)	
E Z LOADER BOAT TRAILERS,	)	
INC., and CONTINENTAL	)	
INSURANCE CO.,	)	
	)	
Defendants-Appellants.	)	

For Appellants:

For Appellee:

Mike P. Lynch  
Lynch, Lynch & Lynch  
Winchester, TN

Thomas M. Horne  
Luther-Anderson, PLLP  
Chattanooga, TN

MEMORANDUM OPINION

Members of Panel:

Frank F. Drowota, III, Associate Justice  
Thomas W. Brothers, Special Judge  
Joe C. Loser, Jr., Special Judge

AFFIRMED and REMANDED

Brothers,  
Judge

MEMORANDUM OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel in accordance with Tenn.Code Ann. §50-6-225(e)(3). Appellant's appeal raised one issue, whether the Trial Court's award of permanent partial disability benefits based on a 50% vocational disability to both arms was excessive. Appellee requests post judgment interest pursuant to Tenn.Code Ann. §50-6-225(h)(1).

Appellate review is *de novo* upon the record of the Trial Court, accompanied by a presumption of the correctness of the findings of fact, unless the preponderance of the evidence is otherwise. **Tenn.Code Ann. §50-6-225(e)(2)**. After having considered the briefs submitted by both parties, and the entire record presented for review, this Court finds that the evidence does not preponderate against the Trial Court's award of permanent partial disability benefits based on a 50% vocational disability to both arms. Therefore, it is the opinion of this Court that the Trial Court should be affirmed.

Appellee is entitled to recover post judgment interest on accrued but unpaid disability benefits, the amount to be calculated from the date of the Trial Court's judgment. § 50-6-225(h)(1), T.C.A., *West American Insur. Co. v. Montgomery*, 861 S.W.2d 230 (Tenn. 1993), *McClain v. Henry I. Seigel Co.*, 834 S.W.2d 295 (Tenn. 1992).

The judgment of the Trial Court is affirmed and the matter is remanded to the Trial Court for determination of interest and additional proceedings, if any, as may be necessary. Costs on appeal are taxed to the defendants-appellants.

\_\_\_\_\_  
Thomas W. Brothers, Special Judge

CONCUR:

\_\_\_\_\_  
Frank F. Drowota, III, Associate Justice

\_\_\_\_\_  
Joe C. Loser, Jr., Special Judge