

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

November 16, 2015 Session

**GENE STAMPS EX REL. ESTATE OF MARILYN SUE STAMPS, ET AL. v.
TRINITY MARINE PRODUCTIONS, INC., ET AL.**

**Appeal from the Chancery Court for Davidson County
No. 13455II Carol L. McCoy, Chancellor**

**No. M2015-00373-SC-R3-WC – Mailed February 19, 2016
Filed March 22, 2016**

A widow filed suit seeking workers' compensation death benefits for herself and her son, the stepson of the deceased worker. She alleged that her husband's death was caused by a lung disease contracted in the course of his employment. The employer denied liability. While the action was pending, the widow died. An amended complaint was filed by her estate and her son. The trial court granted the employer's motion for summary judgment, holding that neither the estate nor the son had standing to sue for benefits. The estate and son have appealed. The appeal has been referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law pursuant to Tennessee Supreme Court Rule 51. We reverse the judgment and remand the case to the trial court for further proceedings.

**Tenn. Code Ann. § 50-6-225(a)(2) (2014) Appeal as of Right; Judgment of the
Chancery Court Reversed and Remanded**

BEN H. CANTRELL, SR. J. delivered the opinion of the Court, in which CORNELIA A. CLARK, J. and DON R. ASH, SR. J., joined.

Jill T. Draughon, Nashville, Tennessee, for the appellants, Gene Stamps, on behalf of the Estate of Marilyn Sue Stamps, and Steven Cozel.

William F. Kendall, III, Jackson, Tennessee, for the appellees, Trinity Marine Products, Inc., and ACE American Insurance Co.

OPINION

Factual and Procedural History

Steven Stamps (“Decedent”) was employed by Trinity Marine Products (“Employer”) in May 2010. He died in October 2011. Marilyn Stamps, Decedent’s widow, filed suit in the Chancery Court for Davidson County on March 28, 2013, alleging that Decedent died as a result of a lung disease he contracted in the course of his employment. The widow sought an award of workers’ compensation death benefits. Her complaint also alleged that Steven Cozel,¹ her son and Decedent’s stepson, was entitled to benefits as a dependent child of Decedent. In its answer, Employer admitted Decedent’s employment but denied that his death was work-related. Employer also denied that Mr. Cozel’s status as Decedent’s dependent child and otherwise denied that Ms. Stamps and Mr. Cozel were entitled to benefits.

Ms. Stamps died of cancer on January 31, 2014. An amended complaint was filed naming the personal representative of her estate and Mr. Cozel as plaintiffs. The allegations of the amended complaint were otherwise identical to those in the original complaint. Employer answered the amended complaint, again admitting Decedent’s employment, denying that his death was work-related, denying Mr. Cozel’s status as a dependent child of Decedent, and denying it owed benefits. Employer then filed a motion for summary judgment. As the basis for this motion, Employer asserted that neither Ms. Stamps’s estate nor Mr. Cozel had standing to seek benefits under the workers’ compensation law. Employer maintained that, under Tennessee Code Annotated section 50-6-210(d)(8), the right to continue receiving benefits terminates upon the surviving spouse’s death, and because Ms. Stamps claim had been denied and no benefits had been paid prior to her death, Ms. Stamps’s estate lacked standing to pursue benefits. Regarding Mr. Cozel, Employer argued that any right he had to obtain benefits as a dependent stepchild was through his mother and that, because Ms. Stamps’s estate did not have standing, his right to seek recovery was also extinguished by his mother’s death.

¹ Apparently Decedent’s stepson’s legal name is spelled Steven Kozel. His executed affidavit is in the record and that is the way he signs his name. It is also how his name appears in his mother’s will. However, the complaint spells his name “Cozel.”

The trial court agreed with Employer, granted the motion for summary judgment, and dismissed the complaint. Ms. Stamps's estate and Mr. Cozel have appealed, and the appeal has been assigned to the Special Workers' Compensation Appeals Panel pursuant to Tennessee Supreme Court Rule 51.

Analysis

For purposes of Employer's motion for summary judgment, the facts relevant to the issue of standing of Ms. Stamps's estate and Mr. Cozel's standing are essentially undisputed. The application of law to a set of undisputed facts presents an issue of law. Seiber v. Reeves Logging, 284 S.W.3d 294, 298 (Tenn. 2009). Our standard of review is de novo with no presumption of correctness attached to the trial court's conclusions. Teter v. Republic Parking Sys. Inc., 181 S.W.3d 330, 337 (Tenn. 2005).

According to Employer's statement of undisputed facts: (1) Ms. Stamps was Decedent's surviving spouse at the time of his death in October 2011; (2) Ms. Stamps died January 31, 2014; (3) no benefits had been awarded or paid to Ms. Stamps at the time of her death; (4) Mr. Cozel is Ms. Stamps's son; (5) Mr. Cozel was twenty years old at the time Decedent died; and (6) Mr. Cozel was a full time student at Nashville Area Vocational-Technical School at the time Decedent died. Based on these undisputed facts, Ms. Stamps and Mr. Cozel had standing to seek benefits under the workers' compensation law. Employer contends that, because no benefits were paid and it denied that Decedent's death was work-related, any right to seek either future benefits or accrued benefits terminated on Ms. Stamps's death. Employer bases its position on Tennessee Code Annotated sections 50-6-210(e)(3) and 210(e)(8). These sections provide:

[(e)](3) SURVIVING SPOUSE AND CHILDREN, HOW PAID. In all cases where compensation is payable to a surviving spouse for the benefit of the surviving spouse and dependent child or children, the court shall have the power to determine in its discretion what portion of the compensation shall be applied for the benefit of any child or children, and may order the compensation paid to a guardian.

...

[(e)](8) COMPENSATION TO DEPENDENTS TO CEASE UPON DEATH OR MARRIAGE. If compensation is being paid under this chapter to any dependent, the compensation shall cease, upon the death or marriage of the dependent, unless otherwise provided in this section.

Employer cites the first clause of section 210(e)(8), which terminates payment of compensation upon a dependent's death or marriage "if compensation is being paid." Employer argues that this language implies that, in cases where benefits have not been paid, the right to pursue a claim for accrued benefits is extinguished with the death of the dependent. Employer cites Sands v. Brock Candy Co., 101 S.W.2d 1113 (Tenn. 1937), in which the Supreme Court stated:

While it is true that compensation can not pass by inheritance, and that the compensation act is in no sense a statute of descent or distribution, yet, when it has been adjudicated, as in this case, that the widow and dependent grandchildren are beneficiaries of the wages of the employee, and entitled to be compensated for his death, a redistribution of the award, upon the death of the widow, cannot be regarded as permitting the benefits awarded the widow to survive to the other dependents. The children take in their own right, as dependents, and not by inheritance.

Id. at 1115.

Employer contends that an award of unpaid, but accrued, benefits to Ms. Stamps's estate would be tantamount to allowing Ms. Stamps to pass her "right to receive compensation to her heirs," in conflict with Sands. We disagree. On the date of Decedent's death, Tennessee Code Annotated section 50-6-116 "declared [the workers' compensation law] to be a remedial statute, which shall be given an equitable construction by the courts, to the end that the objects and purposes of this chapter may be realized and attained." To that end, the statute "should be construed liberally to effectuate its purpose of justly compensating injured employees and their families." McCormick v. Aabakus Inc., 101 S.W.3d 60, 62 (Tenn. Workers Comp. Panel 2000). In our view, Employer's narrow interpretation of section 210(e)(8) directly conflicts with the mandate to construe the statute in a manner that justly compensates workers and their families. Had she survived, it is undisputed that Ms. Stamps would have had standing to seek benefits based on her husband's death. To deny her estate standing to seek benefits simply because she died while Employer was contesting liability would be contrary to the remedial purpose of the workers' compensation statute.

Our conclusion is consistent with Warrick v. Cheatham Cnty. Highway Dep't, 60 S.W.3d 815, 820 (Tenn. 2001). In that case, our Supreme Court held that, as to accrued benefits, "workers' compensation claims do not terminate upon the nonwork-related death of the employee merely because the claim has not been adjudicated prior to the worker's death."

Id. The Court observed that:

[S]ound public policy favors allowing claims for unadjudicated benefits to survive the nonwork-related death of the employee. . . . Justice will not be served by denying benefits to those rightfully entitled to receive them merely because they fail to live long enough to survive delays inherent in the judicial process. It is illogical and unfair to base the claimant's right to a recovery upon his ability to outlive that process

...

. . . Little imagination is required to envision a scenario where an employer or its insurance company deliberately delays settling or trying the claim of a seriously or terminally ill worker since the claim would be extinguished by his nonwork-related death. While we are not suggesting that is the situation here, this example illustrates the incentive employers have to exploit for their own benefit the circumstances of employees who find themselves facing serious or terminal illness. Rewarding less than diligence in settling or trying claims is contrary to the goal of encouraging the prompt payment of benefits. Crane Co. v. Jamieson, 237 S.W.2d [546, 548 (Tenn. 1951)]. The law should not provide such an incentive.

Id. at 819.

Although Warrick involved a claim for permanent partial disability benefits, the same rationale and policy considerations are applicable to claims for death benefits. Extinguishing a dependent's right to seek benefits because he or she "fails to live long enough to survive delays inherent in the judicial process" is neither just, nor logical, nor fair. Further, the fact that any benefits awarded may ultimately pass through the dependent's estate is of no consequence. If a dependent saved every penny received during her lifetime, those funds would pass through his or her estate; the employer would not receive a refund of unspent benefits. We therefore conclude that Ms. Stamps's estate has standing to pursue its claim for any benefits to which she would have been entitled prior to her death.

Having determined that Ms. Stamps's death did not extinguish her standing to pursue benefits, we also conclude that the trial court erred in holding that her death extinguished Mr. Cozel's standing to seek benefits. Mr. Cozel alleges that he is entitled to compensation as a dependent stepchild of Decedent pursuant to Tennessee Code Annotated section 50-6-210(e)(11), which states:

ORPHANS AND OTHER CHILDREN. In computing and paying compensation to orphans or other children, in all cases, only those under eighteen (18) years of age, or those over eighteen (18) years of age who are physically or mentally incapacitated from earning, shall be included, the

former to receive compensation only during the time they are under eighteen (18) years of age, the latter only for the time they are so incapacitated. *If the dependent is attending a recognized educational institution, benefits shall be paid until twenty-two (22) years of age.*

Tenn. Code Ann. § 50-6-210(e)(11) (emphasis added); see also Williams v. Travelers Ins. Co., 530 S.W.2d 283, 285 (Tenn. 1975) (“A stepchild, who is a member of the employee’s family and is dependent upon the employee for support, is a dependent child within the ambit of protection of the Workmen’s Compensation Act and is entitled to share benefits equally with an actual child of the deceased employee.”). It is undisputed that Mr. Cozel was twenty years old and enrolled as a full-time student at Nashville Area Vocational-Technical School or Nashville State Community College at the time of Decedent’s death. If Mr. Cozel is able to prove that he was a dependent of Decedent, pursuant to Tennessee Code Annotated section 50-6-201(c) or (d), then Mr. Cozel will be entitled to seek benefits for the time period during which he met the requirements of Tennessee Code Annotated section 50-6-201(e)(11).

Employer cites Tennessee Code Annotated section 50-6-210(e)(3) in support of its contention that benefits for children must be paid through the surviving spouse. That statute says:

In all cases where compensation is payable to a surviving spouse for the benefit of the surviving spouse and dependent child or children, the court shall have the power to determine in its discretion what portion of the compensation shall be applied for the benefit of any child or children, and may order the compensation paid to a guardian.

Tenn. Code Ann. § 50-6-210(e)(3).

The statute grants authority to the trial court to apportion death benefits among eligible persons. It specifically allows payments to be made through a guardian. The statute describes many classes of dependents, including parents, grandparents, orphans and other children, and actual dependents. It is foreseeable that a decedent could leave several classes of dependents, some of whom were adults, others children, some of whom resided with decedent at the time of his death and others who did not. We find no language in the workers’ compensation law that requires a surviving spouse to pursue an action for death benefits on behalf of all possible dependents. Further, we find no language in the statute that prevents dependents other than the surviving spouse from seeking benefits in their own right, although all claims must be presented in a single action. Berry v. Kroger Grocery & Baking Co., 89 S.W.2d 344, 345 (1936).

Conclusion

The judgment of the trial court is reversed. The case is remanded to the trial court for further proceedings consistent with this opinion. On remand the Employer shall have the right to assert any defenses not affected by this opinion. Costs are taxed to Trinity Marine Products, Inc., and ACE American Insurance Co., for which execution may issue if necessary.

BEN H. CANTRELL, SENIOR JUDGE

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JUDGMENT

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 Trinity Marine Products, Inc., and ACE American Insurance Co., and their surety, for which execution may issue if necessary.

PER CURIAM