



“CASUAL LINK” TO ON-THE-JOB INJURY – RECENT INDIANA DECISION

Wright Tree Service, Inc. v. Juan Hernandez

2009 Ind. App. LEXIS 887
(Ind.Ct. App. 2009) June 8, 2009

The single hearing member of the Indiana Worker’s Compensation Board awarded death benefits to the widow of Juan Hernandez. This decision was affirmed by the full Indiana Worker’s Compensation Board. The employer appealed the decision and the Court of Appeals affirmed the Board’s findings. The issue was whether the Board erred in finding that Hernandez’ death was a death by accident arising out of and in the course of his employment with Wright.

Hernandez was a laborer for Wright. On the date in question he was loading limbs into a wood chipper when he was struck in the head and neck by a tree limb, knocking his hard hat from his head and knocking him into the wood chipper. Hernandez was not injured in the chipper but continued to work, complained of pain, and had to rest in the shade following the incident. He did not appear to be well and his foreman took him home.

When Hernandez arrived, his wife noticed that he did not appear to be well and he told her his employer had given him a pill. Hernandez went upstairs to change clothes, his wife heard him yell for her, and when she went to him found him collapsed on the bed and unresponsive.

A neighbor performed CPR until paramedics arrived and performed counter shock treatment before transporting Hernandez to the Indiana Heart Hospital. A CAT scan was then performed due to the report of Hernandez having been struck on the head. He was found to have two occluded arteries with extensive clotting which were successfully stented.

The coronary angiography revealed that Hernandez “suffered from severe two-vessel coronary artery disease, which clearly predated his accident of October 4, 2005”, but Hernandez appeared to be in good health and was not experiencing any signs of symptoms of a heart attack prior to this accident at work. However, Hernandez had suffered brain death due to lack of blood flow to the brain and was declared dead on October 5, 2005, the day after the incident.

The single hearing judge found that Hernandez’s widow was entitled to death benefits and that decision was affirmed by the full Board. The Board’s decision was based on the conclusion that the heart attack was caused by stress induced when the limb struck Hernandez, leaving a one inch gash in his neck and knocking him into a chipper not equipped with a safety brake. The Board considered medical evidence showing that Hernandez: (i) was a healthy man, was never sick, had no pre-accident heart problems, and had no medical problems for which he regularly sought medical treatment; (ii) experienced neck pain immediately after the accident and was so ill that he had to stop working and sit in the shade and rest; (iii) multiple employees asked him if he needed to go to the hospital; (iv) was driven home by his supervisor; and (v) was sweating, ill, and in pain when he arrived.

This medical opinion supported the Board’s award in that even if an employee has a physical condition that renders him more susceptible than the average person to injury, an injury arises out of employment if there is a causal link to an injury sustained on the job.

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