



COVERED CASES

*CEDIC -v- WORKCOVER CORPORATION
(MODULAR FURNITURE PTY LTD)*

Decision of the Full Bench of the Workers Compensation Tribunal

[2000] SAWCT 54

Catchwords:

Supplementary benefit – application of Section 43 (7a) to compensable disabilities arising out of separate traumas.

Facts:

The worker was a carpenter employed by Modular Furniture Pty Ltd, a furniture manufacturer. In May 1993, he sustained an injury to his left hand for which he was awarded a lump sum pursuant to Section 43 of the Act based upon a 40% permanent impairment (1993 prescribed sum).

In May 1995, the worker made a claim for noise induced hearing loss. He was awarded a Section 43 lump sum based on a hearing loss of 18.1% and tinnitus of 8% (1995 prescribed sum).

A claim for surgical scarring was also made and the worker was awarded 3.5% for disfigurement of the chest (1993 prescribed sum) and 2.5% for disfigurement of the thumb (1995 prescribed sum).

The worker's subsequent claim for a supplementary benefit was rejected on the basis that a supplementary benefit is only payable where an entitlement pursuant to Section 43 exceeds 55% of the prescribed sum for a single compensable disability.

The matter was referred directly to the Full Bench.

Issues:

1. Is a supplementary benefit payable pursuant to Section 43(7a) where the cumulative total of all Section 43 benefits paid out for multiple disabilities exceeds 55% of the prescribed sum?

Held:

1. Section 43(7a) can apply to the aggregate of more than one disability.
2. The purpose of Section 43(7a) is to provide additional compensation to workers who have suffered significant permanent impairments because of multiple disabilities.
3. That purpose would be frustrated if Section 43(7a) was limited to circumstances where it only applies to permanent disabilities arising out of the one compensable disability.

Commentary:

The consideration of past Section 43 entitlements is necessary for more than just the application of Regulation 25. It is also important that the cumulative amount of the entitlements is considered to determine whether a supplementary benefit is payable.