

Gun & Davey

Covered



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COVERED CASES

SYNNETT - V - WORKCOVER CORPORATION
(SGIC - MONASH CONSULTING)

JD 87/1999

The worker's earnings at the time of his injury exceeded twice the State average earnings. Pursuant to Section 4(7)(c) his weekly payments were limited to that amount. A Section 38 review in September 1998 revealed that the rates of remuneration to workers in like employment had increased by 5.2%.

The Corporation argued that the worker's average weekly earnings should be limited to 80% of \$1,427.60 being twice the State average at the relevant time. The worker argued that Section 4(7)(c) had done its work with the initial setting of average weekly earnings and no longer had any operation.

His Honour Deputy President Acting Judge Gilchrist stated that the clear intention of Section 4(7)(c) is to limit the amount of compensation payment by way of income maintenance. In doing so the Act penalises high income earners only.

His Honour stated that it was not a strain upon the language of the Act to interpret Section 4(7)(c) to mean that average weekly earnings shall in no case be fixed either at the commencement of incapacity *or anytime thereafter* at more than twice the State average weekly earnings.