



COVERED CASES

Case Snippets

WHITTLE -v- WORKCOVER CORPORATION **(INCOSPEC ASSOC. PTY LTD)**

[2000] SAWCT 45

In this matter Deputy President Acting Judge Gilchrist was required to consider whether the worker's motor vehicle accident could be considered as arising out of or occurring in the course of the worker's employment.

The worker was working at Roxby Downs four weeks on and one week off. He was provided with accommodation on site ("the camp"), a motor vehicle and meals by his employer (through the Western Mining Co.). The camp was situated approximately half way between Olympic Dam and the township of Roxby Downs. The worker's hours were not regular and he could choose to attend his duties of employment which involved the inspection and examination of painting work undertaken by others at any time providing he fulfilled his required number of hours. He would occasionally attend to his duties in the evenings. These occasions could either be scheduled or unscheduled.

At 11.30 am on a Saturday night the worker was involved in a vehicle collision on the way home from having dinner with friends at the Roxby Downs Club. Although the worker was not able to remember details of the night of the accident, it is alleged that he may have been on his way to his place of employment to fulfil his work duties at the time of the accident!

It was asserted by the worker that due to the nature of his employment he was in effect on duty for the entire time he was at Roxby Downs and was therefore in the course of his employment at the time of the accident. Alternatively it was contended that whilst travelling from the Roxby Downs Club to the camp he was performing something incidental to his employment and ought to be regarded as having been in the course of his employment at the time of the accident.

The Deputy President concluded that the evidence put before him did not permit him to make any findings in relation to what the worker had intended to do after he left the Roxby Downs Club. The Deputy President held that the worker's attendance at the Roxby Downs Club on the evening of the accident could be described as a "social event" and could not be characterised as a meal break in the course of his employment.

His Honour acknowledged that the terms of the worker's employment meant that he had to be in or about Olympic Dam, the camp or Roxby Downs for the duration of the four week stint, however states that it did not follow that the worker was in the course of his employment for this entire period.

It was held that the worker's accident occurred in the course of a journey between a leisure activity and the camp and therefore did not arise out of or in the course of the worker's employment.