Koenig v. State Ins. Fund

Supreme Court of New York, Appellate Division, Third Department
February 19, 2004, Decided ; February 19, 2004, Entered
94776

Reporter: 4 A.D.3d 671; 772 N.Y.S.2d 392; 2004 N.Y. App. Div. LEXIS 1754

In the Matter of the Claim of Leah Koenig, Appellant, v. State Insurance Fund et al., Respondents. Workers' Compensation Board, Respondent.

Disposition: [***1] Board decision reversed; matter remitted to the board.

Core Terms

decedent's, workers' compensation, claimant, collapse, causal relationship, death benefit, unexplained, causality

Case Summary

Procedural Posture

Respondent, the New York Workers' Compensation Board, ruled that appellant decedent's claimant, a wife, did not sustain a compensable injury and denied the wife's claim for workers' compensation death benefits. The wife appealed the decision.

Overview

The wife's husband, a self-employed certified public accountant, suffered cardiac arrest in his office and collapsed, expiring a week later in the hospital. Respondent, the State Insurance Fund, claimed that the heart attack was not causally related to the husband's employment, but was unable to provide evidence which proved the cause of the heart attack. The Board concluded that the wife was not entitled to invoke the presumption of compensability contained in *N.Y. Workers' Comp. Law § 21(1)* because the husband's death was not unwitnessed and, further, because the wife had failed to establish, by competent medical evidence, a causal relationship between such death and husband's employment. The appellate court held that the *N.Y. Workers' Comp. Law § 21(1)* presumption also applied to accidents that, although witnessed, were unexplained. Thus, the presumption applied and it was the Fund's burden, clearly not met here, to present substantial evidence to the contrary which, as a matter of law, precluded the Board from crediting any explanation of the accident except that offered by the employer. Therefore, the Board erred in denying benefits.

Outcome

The decision was reversed, with costs, and the matter was remitted to the Board for further proceedings.

LexisNexis® Headnotes

Workers' Compensation & SSDI > Compensability > Course of Employment > General Overview

HN1 The presumption of compensability under *N.Y. Workers' Comp. Law § 21(1)* also applies to accidents that, although witnessed, are unexplained.

Headnotes/Syllabus

Headnotes

Workers' Compensation--Presumptions.--Decision which ruled that claimant's decedent did not sustain compensable injury and denied her claim for death benefits reversed--decedent, self-employed certified public accountant who suffered cardiac arrest in his office and expired week later in hospital, was entitled to statutory presumption that injury arose out of and in course of such employment (*see Workers' Compensation Law § 21 [1]*)--in light of undisputed account of decedent's collapse, and absent any conflicting medical or factual evidence, it was not proper to deny claimant benefits on ground that she did not establish prima facie case of causality.

Counsel: Grey & Grey L.L.P., Farmingdale (Robert E. Grey of counsel), for appellant.

Douglas J. Hayden, State Insurance Fund, New York City (Lawrence L. Friedman of counsel), for State Insurance Fund and another, respondents.

Eliot Spitzer, Attorney General, New York City (Iris A. Steel of counsel), for Workers' Compensation Board, respondent.

Judges: Before: Cardona, P.J., Mercure, Crew III, Carpinello and Mugglin, JJ. Cardona, P.J., Mercure, Crew III and Carpinello, JJ., concur.

Opinion by: Mugglin

Opinion

[*671] **[**392]** Mugglin, J. Appeal from a decision of the Workers' Compensation Board, filed August 21, 2003, which ruled that claimant's decedent did not sustain a compensable injury and denied her claim for workers' compensation death benefits.

Claimant's husband (hereinafter decedent), a self-employed certified public accountant, suffered cardiac arrest in his office and collapsed, expiring a week later in the hospital. The State Insurance Fund, claimant's workers' compensation carrier, controverted her claim for workers' compensation death benefits and produced physician **[***2]** Steven Cagen, who was unable to **[*672]** provide any opinion as to whether decedent's death was causally related to his employment. Lay testimony taken of claimant and an associate of decedent who witnessed decedent's collapse reveals only that decedent, who had been discussing a tax matter with the associate when he was stricken, had not mentioned or displayed any unusual symptoms or health problems tending to explain his demise. After the **[**393]** Fund failed on several subsequent occasions to fulfill the directive of the Workers' Compensation Law Judge (hereinafter WCLJ) to produce a supplemental medical report specifically addressing causality, the WCLJ precluded it from further opportunities to do so. However, the WCLJ ultimately denied the claim, concluding that claimant was not entitled to invoke the presumption of compensability contained in *Workers' Compensation Law § 21 (1)* because decedent's death was not unwitnessed and, further, because claimant had failed to establish, by competent medical evidence, a causal relationship between such death and decedent's employment. The Workers' Compensation Board affirmed the WCLJ's decision, prompting this appeal by claimant.

[*3]** We now reverse. Inasmuch as there is no dispute that decedent's initial injury occurred while he was working at his place of employment, he was entitled to the statutory presumption that the injury arose out of and in the course of such employment (*see Workers' Compensation Law § 21 [1]*; *Matter of Keevins v Farmingdale UFSD, 304 A.D.2d 1013, 1014, 759 N.Y.S.2d 213 [2003]*; *Matter of Van Horn v Red Hook Cent. School*, 75 A.D.2d 699, 427 N.Y.S.2d 85 [1980]). Contrary to the argument by the Fund and the employer, ***HN1*** this presumption also applies to accidents that, although witnessed, are unexplained (*see Matter of Cartwright v Onondaga News Agency, 283 A.D.2d 837, 837-838, 728 N.Y.S.2d 105 [2001]*; *Matter of Brasch v Investors Funding Corp., 23 A.D.2d 918, 919, 259 N.Y.S.2d 126 [1965]*, *lv denied 16 N.Y.2d 483 [1965]*). Thus, the presumption applies and it was the Fund's burden, clearly not met here, to present " 'substantial evidence to the contrary which, as a matter of law, precludes the Board from crediting any explanation of the accident except that offered by the employer' " (*Matter of Scalzo v St. Joseph's Hosp., 297 A.D.2d 883, 884, 747 N.Y.S.2d 266* **[***4]** [2002], quoting *Matter of Iacovelli v New York Times Co., 124 A.D.2d 324, 326, 507 N.Y.S.2d 922 [1986]*; *see Matter of Barrington v Hudson Val. Fruit Juice, 297 A.D.2d 886, 887, 747 N.Y.S.2d 613 [2002]*). In light of the undisputed account of decedent's collapse, and absent any conflicting medical or factual evidence for the Board to weigh, it was not proper to deny claimant benefits on the ground that she did not establish a prima facie case of causality (*see Matter of Holmes v Kelly Farm & Garden, 1 A.D.3d 743, 743, 766 N.Y.S.2d 651 [2003]*; *cf. Matter of Estate of Hertz v Gannett Rochester Newspapers, 272 A.D.2d 814, 815, 709 N.Y.S.2d 222 [2000]*). Accordingly, the Board's decision cannot be sustained.

[*673] Cardona, P.J., Mercure, Crew III and Carpinello, JJ., concur.

Ordered that the decision is reversed, with costs, and matter remitted to the Workers' Compensation Board for further proceedings not inconsistent with this Court's decision.