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When an Injury is Due to an Assault at the Workplace is it Compensable?

In the case of *Bhut v. Aluminum Shapes*, the Court was faced with the issue of whether the employee was entitled to benefits for an injured shoulder that occurred as a result of an altercation with a co-worker.

The altercation occurred on May 21, 2017, when the employee was attempting to walk around a co-worker who had his feet up on a bench. There was a dispute with respect to whether the co-worker was being obnoxious or overly aggressive with respect to this incident and the altercation took place moments later when they passed each other in the hallway. The version of events differed, but it is clear they were simply engaged in a physical altercation based upon what each of them felt was inappropriate, rude or ignorant behavior. The incident took place in the foreman's locker room during the lunch break.

The Judge found the injuries compensable. He concluded that the altercation took place during the course of employment and there was no evidence that there was any personal animosity between the two co-workers outside of their place of employment.

The Appellate Division affirmed the Judge's conclusions. It found the Judge's fact finding to be supported by the evidence. The employer's argument that the claim should be denied since the employee was the aggressor was rejected. It was concluded that each individual felt that the other one was being aggressive and the actions were self-protective. There was no evidence that the dispute was due to any personal animosity.

Comment: Altercations like this take place frequently in the workplace. In order for the employer to mount a successful defense, the altercation must be as a result of a personal dispute between the parties. Disputes that arise simply as a result of sharing the same space or performing job duties do not represent a defense. If the dispute was due to a personal issue such as an outside personal relationship or a sporting bet between the two, the employer may have had a much better opportunity to defend the claim.

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