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Supreme Court of NJ Issues Significant Denial of Cardiovascular Claim

In a decision rendered by the Supreme Court of New Jersey on July 30, 2014, the dependency claim filed by a husband as a result of the death of his spouse, an employee of a telecommunications company for approximately 25 years, was dismissed. The employee had a telecommuting job where she worked from her home office several days a week. On the evening of September 24, 2007, she worked throughout the night in order to complete a project which, but for a brief break to get her son to the school bus, was not completed until 10:30 am. Approximately one hour later, she called emergency medical services. When they arrived, they were unsuccessful in reviving her. According to the autopsy, she died of an embolism that had become lodged in her pulmonary artery.

Both the Worker's Compensation Judge and eventually the Appellate Division, on remand, granted the petition concluding that her pulmonary embolism was caused by a significant number of hours in a seated position in order to complete her project.

The Supreme Court reversed the underlying decisions emphasizing the NJ Statute (N.J.S.A. 34:15-7.2) which was specifically passed in order to limit the number of cardio vascular claims that had been awarded benefits prior to the 1979 amendment. The Court noted that the employee must prove by a preponderance of credible evidence that the injury or death was produced by work effort or strain in excess of the wear and tear of the employee's daily living. The statute was amended to prevent recovery from cardiac events that simply happen to manifest themselves in the work place.

The Court concluded that the employee's husband did not establish that his wife's death was the result of work effort or strain involving a substantial condition or event. They noted her comorbidities including obesity, the use of birth control and an enlarged heart, but more importantly concluded that the sedentary nature of her job did not constitute a work effort or strain in excess of the wear and tear of her daily living. The Court noted that the employee had control over her body position and movement while working and was free to take breaks, stand and stretch and leave her work station. Prolonged uninterrupted sitting was not compelled by her job.

This decision is certainly helpful when defending cardiovascular and cerebrovascular claims and emphasizes once again the specific nature of the burden of proof required by this statute.

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