

STATE OF MICHIGAN
COURT OF APPEALS

JEWELL DAVIS, Personal Representative of the
Estate of COAQUISE SPEARMAN, Deceased,

UNPUBLISHED
April 13, 2001

Plaintiff-Appellee,

v

No. 221008
Genesee Circuit Court
LC No. 97-061648-NO

ALLSTATE INSURANCE COMPANY,

Defendant-Appellant.

Before: Talbot, P.J., and Sawyer and F.L. Borchard*, JJ.

MEMORANDUM.

Defendant appeals as of right from a circuit court order granting plaintiff's motion for interest on an arbitration award. We affirm as modified. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The parties submitted plaintiff's claim for insurance benefits to arbitration. The arbitrators awarded plaintiff \$20,000. The award was silent as to interest. After entering a judgment on the award, the court granted plaintiff's motion for interest, finding that plaintiff was entitled to both prejudgment and postjudgment interest on the award. Although plaintiff requested preaward, prejudgment interest, the court did not specify the nature of the prejudgment interest awarded.

The law is clearly settled that the issue of preaward, prejudgment interest is a matter solely within the arbitrators' discretion. *Holloway Constr Co v Oakland Co Bd of Co Rd Comm'rs*, 450 Mich 608, 618; 543 NW2d 923 (1996). Because the parties did not agree otherwise, that issue is deemed to have been submitted to arbitration and, because the arbitrators did not award interest, the court cannot grant preaward, prejudgment interest in their stead. *Id.* However, the court was authorized to grant postaward, prejudgment interest and postjudgment interest under MCL 600.6013; MSA 27A.6013, such interest being statutorily required. *Id.*

* Circuit judge, sitting on the Court of Appeals by assignment.

Therefore, to the extent the trial court granted plaintiff preaward, prejudgment interest, it erred as a matter of law and that aspect of its order is vacated.

Affirmed as modified.

/s/ Michael J. Talbot

/s/ David H. Sawyer

/s/ Fred L. Borchard