IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE

LINDA SUE WHITE,	)	
	)	
Plaintiff/Appellee	)	BEDFORD CHANCERY
	)	
v.	)	NO. 01S01-9709-CH-00203
	)	
EATON CORPORATION,	)	HON. TYRUS H. COBB,
	)	CHANCELLOR
Defendant/Appellant	)	

For the Appellant:

John R. White
Bobo, Hunt & Bobo
202 First National Bank Building
P.O. Box 169
Shelbyville, TN 37162

Katherine M. Wall, *Pro Hac Vice*
Eaton Corporation
Eaton Center
1111 Superior Avenue
Cleveland, OH 44114-2584

For the Appellee:

David L. Cooper
Columbia A. McHale
Cannon, Cannon & Cooper, P.C.
1000 Northchase Drive, Suite 110
Goodlettsville, TN 37070

M E M O R A N D U M O P I N I O N

Members of Panel:

Justice Frank F. Drowota, III
Senior Judge John K. Byers
Special Judge William S. Russell

AFFIRMED

BYERS, Senior Judge

OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

The only issue raised in this case is whether the award of 35 percent permanent disability to the plaintiff's right arm is excessive.

We find that it is not and affirm the judgment of the trial court.

Review of the findings of fact made by the trial court is *de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the findings, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2). *Stone v. City of McMinnville,* 896 S.W.2d 548, 550 (Tenn. 1995).

The application of this standard requires this Court to weigh in more depth the factual findings and conclusions of the trial court in a workers' compensation case. *See Corcoran v. Foster Auto GMC, Inc.*, 746 S.W.2d 452, 456 (Tenn. 1988).

At the time of the trial, the plaintiff was 33 years of age; she had graduated from high school; she had two years of training as a nursing assistant; and she had served four years in the U.S. Navy, where she was trained and worked as a dental assistant.

The plaintiff began work for the defendant on June 23, 1993, and on July 19, 1993, she began work on the production line. This work required considerable use of the hands and the use of tools. Soon after commencing this work, the plaintiff began to experience pain in her right wrist. On August 9, 1993, the defendant sent the plaintiff to Dr. Samuel Sells. Dr. Sells diagnosed the plaintiff's problem as carpal tunnel syndrome. The plaintiff was assigned another job and was sent or went again to see Dr. Sells on February 4, 1994 for pain in her left and right arms. Dr. Sells advised the plaintiff to stay off from work until February 27, 1994. On June 26, 1994, the plaintiff left work because, according to the record, she was unable to find a day care facility for her child.[1]

Dr. Sells referred the plaintiff to Dr. James K. Lanter, a hand surgeon. Dr. Lanter saw the plaintiff on March 17, 1994 and diagnosed her condition as DeQuervain's tenosynovitis in

---

[1] The plaintiff testified she asked for that entry to be made on her discharge sheet rather than discharge for injury in order to help her in future job searches.

the left hand and carpal tunnel syndrome in the right hand. Dr. Lanter did surgery on the left hand on June 15, 1994 and on the right hand on August 24, 1994.[2]

MEDICAL EVIDENCE

Dr. Lanter, by report, found the plaintiff had sustained a three percent permanent impairment to the right arm as a result of the carpal tunnel syndrome. He found the plaintiff had some crepitation in the right shoulder and atrophy of the thenar muscle (described often as the pad under the thumb) of the right hand. Dr. Lanter restricted the plaintiff from repetitive use of the right hand such as occurs in continuous production line work.

The plaintiff was referred to occupational therapy and Barbara Jean Lewis, an occupational therapist who had six years of college training in the discipline and who was requested and licensed by the State of Tennessee to testify concerning her evaluation of the plaintiff.

Ms. Lewis testified the plaintiff could not lift more than 20 pounds with her right arm, that she had atrophy of the thenar muscle, that she could not do work which required her to reach upward, and that she could not do repetitive flexion of the wrist. Ms. Lewis further testified the plaintiff had lost dexterity in her right hand.

The plaintiff testified she had worked briefly at a day care center after leaving employment with the defendant but was unable to lift children, which was required. She had sought work at a convenience store but was told the restrictions she had were not compatible with that work.

The plaintiff further testified she could not work as a dental assistant because the loss of dexterity in her right hand made it too difficult to handle the instruments used in dentistry and that having to insert and remove them in and from the patient's mouth would not be successful.

The record indicates the plaintiff's greatest skills are as a dental assistant or nursing assistant. Her work experience outside the military is production line work. The medical restrictions prohibit her from doing production line work and the inability to lift more than 20 pounds at a time prohibits her from working as a nursing assistant or as a child care worker. Most significantly, her impairment has eliminated the plaintiff from pursuing the two fields of

[2] Only the right hand/arm is at issue in this case.

occupation which are the highest and best use of her ability - dental assistant and nursing assistant.

The upshot of this is that the plaintiff's vocational impairment far exceeds the medical impairment rating of three percent. Because the extent of vocational impairment is the issue to be resolved by this Court, such determination is not always consistent with a numerical formula of medical impairment vis-a-vis vocational impairment. *See Corcoran v. Foster Auto GMC, Inc.*, 746 S.W.2d 452 (Tenn. 1980).

Based on this record, we find the evidence does not preponderate against the judgment of the trial court.

We affirm the judgment of the trial court and tax the cost of this appeal to the defendant.

_____
John K. Byers, Senior Judge

CONCUR:

_____
Frank F. Drowota, III, Justice

_____
William S. Russell, Special Judge

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

FILED

April 22, 1998

Cecil W. Crowson
Appellate Court Clerk

LINDA SUE WHITE,	}	*BEDFORD CHANCERY*
	}	*No. 19,817 Below*
Plaintiff/Appellee	}	
	}	*Hon. Tyrus H. Cobb,*
vs.	}	*Chancellor*
	}	
EATON CORPORATION,	}	*No. 01S01-9709-CH-00203*
	}	
Defendant/Appellant	}	*AFFIRMED.*

JUDGMENT ORDER

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by Defendant/Appellant and Surety, for which execution may issue if necessary.

IT IS SO ORDERED on April 22, 1998.

PER CURIAM