

Worker's Compensation Claims Following an Employee's Suicide

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Chain-of-Causation Test in Case of Suicide Determines Compensability of an Employee's Suicide following a Work-Related Injury

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In *Appeal of Pelmac Industries*, 267 A.3d 395 (N.H. 2021), the Supreme Court of New Hampshire adopted “the chain-of-causation test” as the proper standard to determine the compensability of an employee's death by suicide following a work-related injury. The chain-of-causation test is satisfied if the claimant can prove, by a preponderance of the evidence, that the employee's suicide resulted from a disturbance of the mind of such severity as to override normal rational judgment, and that such a disturbance was produced by the employee's prior work-related injury. If the chain-of-causation test is satisfied, an award of workers' compensation death benefits is permitted, despite established statutory limits on injuries caused by an employee's willful act.

Facts of the Case

The decedent worked as an alarm installer and technician for Pelmac Industries, Inc. (Pelmac). He used a company vehicle to commute between his home and various work sites throughout New Hampshire and Massachusetts. While driving home on June 5, 2018, the decedent was in a single-vehicle accident. His vehicle had crossed the median and flipped over. The cause of the accident was unknown. He sustained numerous injuries, including a fractured neck and tear to his left rotator cuff.

The decedent's rotator cuff injury required surgery, but the surgery had to be delayed until his neck fracture healed and his neck brace could be removed. While waiting for the surgery, which the decedent

wanted to have, the decedent could not drive or manage his own care needs. He “became ‘increasingly inactive’ ‘emotional, often crying, and morose’” (*Pelmac*, p 401). On August 29, 2018, a neurosurgeon informed the decedent that his neck fracture required at least another month to heal. This news was “devastating” to the decedent and perceived as the “last straw.” On September 2, 2018, the decedent died by suicide at his home. His suicide note discussed “deep dissatisfaction with his present and future situation” (*Pelmac*, p 402).

Pelmac's insurance carrier, AmGUARD Insurance Group (Carrier), initially paid the decedent's Workers' Compensation claim from the motor-vehicle accident. After his suicide, however, they terminated payment noting his death was “not causally related to the work injury and did not arise out of or in the course of employment” (*Pelmac*, p 402). The decedent's estate requested review of that denial by the New Hampshire Department of Labor. The Department of Labor, after a hearing, denied benefits related to the suicide death. Their denial was appealed to the New Hampshire Compensation Appeals Board (Appeals Board), both as to whether the initial injury was a work-related injury, and whether the subsequent suicide resulted from that preceding motor-vehicle accident.

The Appeals Board reviewed opinions from two expert witnesses on the question of causation. The expert witness for the decedent's estate, a psychologist, noted that the decedent had no prior significant psychiatric history. The psychologist interviewed the decedent's widow and considered her statements about the decedent's mental health deterioration after the motor-vehicle accident. The psychologist opined that the decedent had sustained a traumatic brain injury from the June motor-vehicle accident, and the injuries from the motor-vehicle accident were “the precipitating cause” of the suicide. The expert witness for the Carrier, a psychiatrist, offered an opposing opinion that while the “motivation to commit suicide may have stemmed from injuries sustained in the motor-vehicle accident,” the decedent “was not compelled [to commit suicide] because of those injuries” (*Pelmac*, p 403).

The Appeals Board found the psychologist's opinion that the June work-related motor-vehicle accident was causative of the September suicide, “more persuasive and logical.” The Appeals Board noted that the psychologist (the expert for the decedent's

estate) had the “benefit of interviewing” the decedent’s widow, while the psychiatrist (the expert for the Carrier) had not. The Appeals Board found an “obvious cause and effect” between the decedent’s prior work-related injuries and his suicide and held that the decedent’s estate had met their burden to show entitlement to death benefits. The Carrier appealed the Appeals Board’s decision to the New Hampshire Supreme Court.

Ruling and Reasoning

The New Hampshire Supreme Court first considered whether the June injury was work-related. It agreed with the Appeals Board’s finding on this question, noting that the injury was work-related. The decedent was in the scope of employment; he was a traveling employee; and the injury arose in the course of employment. The court then considered whether the decedent’s death in September was also work-related and compensable, even though it was a result of suicide. Under New Hampshire Workers’ Compensation Law, an employer can be held responsible for subsequent injuries that are the “‘direct and natural result’ of a prior, work-related injury” (*Pelmac*, p 408). But, a willful act by an employee, to injure himself, can preclude compensation as an intervening cause.

The Supreme Court of New Hampshire adopted a chain-of-causation test for determining whether a suicide death is compensable under Workers’ Compensation law. The court held that a suicide is determined to be a direct and natural result from a prior work-related injury, rather than an intervening cause, if there is an unbroken chain of causation. Specifically, there must be a chain of causation from the work-related injury to a resulting disturbance of mind that “overr[ode] normal, rational judgment” and led to the ultimate suicide. When such a chain of causation exists, the suicide death is not an intervening cause and can be compensated. The court, in supporting its ruling, noted the remedial purpose of Workers’ Compensation laws.

Using the chain-of-causation test, the Supreme Court of New Hampshire affirmed the Appeals Board’s decision to award death benefits to the decedent’s estate. The court supported this holding with the Appeals Board’s findings of how the decedent’s mental health had deteriorated after the work-related motor-vehicle accident; that the suicide was not “rational”; and that there was a causal link. The court

referenced the differing expert opinions on the question of causation but noted the reasonableness of the Appeals Board relying on the expert opinion put forth by the decedent’s estate.

Discussion

In New Hampshire, when an employee suffers a secondary injury, which is a “direct and natural” result of a work-related injury, an employee can seek to be compensated through the Workers’ Compensation system. Suicide, however, is an intentional act meant to bring about death. Purposeful self-injurious acts, as a general rule, break the causal connection required for compensation. This paradigm creates difficulty given the unique nature of suicide and the role work-place injuries can have in creating or aggravating mental health symptoms.

The chain-of-causation test allows the volitional nature of suicide to be set-aside and a decedent’s heirs to be compensated through the Workers’ Compensation system. The test requires that the work-related injury have caused a disturbance of mind, and that said disturbance of mind was sufficiently severe that it overrode rational judgment when the decedent committed suicide. In this case, the expert for the decedent’s estate opined that the initial work-related injury had included a traumatic brain injury. The expert also cited the increased incidence of suicidal thoughts after such an injury.

Appeal of Pelmac Industries, and the cases referenced within, are useful readings for forensic psychiatrists who are asked to opine on causation in a Workers’ Compensation case involving a suicide death preceded by a work-related injury. The majority of jurisdictions with a willful act exclusion have adopted a chain-of-causation test when assessing compensability for suicide in a Workers’ Compensation case (*Pelmac*, p 408). The factors mentioned throughout the opinion serve as a good starting point for the formulation of this type of opinion. Relevant factors to consider include: the employee’s psychiatric and medical history, the nature of the work-related injury (including the existence of a traumatic brain injury), whether the work-related injury caused or aggravated preexisting psychiatric symptoms, the employee’s functioning before and after the work-related injury, and the nature and impact of psychosocial stressors on the ultimate suicide.