IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2000 MTWCC 27

WCC No. 9910-8329

JAMES BELKNAP

Petitioner

vs.

LIBERTY NORTHWEST

Respondent/Insurer/Employer.

JUDGMENT

Summary: Claimant requested benefits under section 39-71-708, MCA for approximately two inch scar on forehead. Insurer refused.

Held: Scar is a "serious disfigurement" entitling claimant to some compensation, but only $250 out of statutory maximum of $2,500 awarded where scar was not particularly pronounced or wide and there was no obvious facial discoloration near hairline.

Topics:

39-71-708, MCA. After hearing claimant's testimony and observing an approximately 2 inch scar on claimant's forehead which is not particularly pronounced or wide, and failing to discern obvious facial discoloration near claimant's right hairline, WCC found scar was a "serious" disfigurement allowing some compensation, but awarded only $250 because scar, in comparison to other scars, e.g., Ostermiller v. Employers Insurance of Wausau, 2000 MTWCC 11, was relatively minor. (Statutory maximum $2,500.)

Benefits: Disfigurement. After hearing claimant's testimony and observing an approximately 2 inch scar on claimant's forehead which is not particularly pronounced or wide, and failing to discern obvious facial discoloration near claimant's right hairline, WCC found scar was a "serious" disfigurement allowing some compensation, but awarded only $250 because scar, in comparison to other scars, e.g., Ostermiller v. Employers Insurance of Wausau, 2000 MTWCC 11, was relatively minor. (Statutory maximum $2,500.)

¶1 The trial in this is matter was held on April 26, 2000, in Billings, Montana, pursuant to claimant's petition asking the Court for an award under section 39-71-708, MCA (1997), for disfigurement. After hearing the claimant's testimony and observing an approximately 2 inch scar on claimant's forehead which is not particularly pronounced or wide, and failing to discern obvious facial discoloration near claimant's right hairline, the Court issued its ruling from the bench, finding that the scar is a "serious" disfigurement for claimant but that the scar is minor in comparison to the scar in *Raymond Ostermiller v. Employers Insurance of Wausau Mutual Company,* 2000 MTWCC 11 and in comparison to other facial disfigurements. Accordingly, giving consideration to the severity of the scar, *Ostermiller* at 15, the Court awarded claimant $250 for his disfigurement.

¶2 The Court's findings of fact, conclusions of law and rationale for the award were announced orally at the close of trial with a court reporter present, and shall constitute the Court's final decision. In accordance with the decision,

¶3 JUDGMENT for petitioner/claimant is entered in the sum of $250, which amount shall be paid by respondent, Liberty Northwest. Claimant is further entitled to his costs, if any, in accordance with the Court's rules of procedure.

DATED in Helena, Montana, this 9th day of May, 2000.

(SEAL)

/s/ Mike McCarter
JUDGE

c: Mr. R. Russell Plath
Mr. Larry W. Jones