

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MECENE LAGUERRE,

Claimant,

vs.

JBS USA HOLDINGS, INC.,

Employer,

and

AMERICAN ZURICH INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 21012994.01

A P P E A L

D E C I S I O N

: Headnotes: 1402.20; 1402.40; 1803, 1803.1;
: 2907; 5-9998

Claimant Mecene Laguerre appeals from an arbitration decision filed on August 3, 2023. Defendants JBS USA Holdings, Inc., employer, and its insurer, American Zurich Insurance Co., respond to the appeal. The case was heard on March 1, 2023, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 14, 2023.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained permanent disability as a result of the stipulated work injury which occurred on October 21, 2021. The deputy commissioner found that based on the impairment rating of Sunil Bansal, M.D., claimant proved he sustained a right arm injury with a sequela injury to his right leg, with the result that the deputy commissioner found defendants are liable for claimant's disability under Iowa Code section 85.34(2)(t). The deputy commissioner found claimant is not entitled to receive industrial disability benefits for the work injury. The deputy commissioner found claimant sustained seven percent functional impairment of the whole person as a result of the work injury which, under section 85.34(2)(t), entitles claimant to receive 35 weeks of permanent partial disability (PPD) benefits.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant's injury is a bilateral scheduled member injury compensable under section 85.34(2)(t), and in finding claimant's injury is not an injury to the body as a whole which would entitle claimant to receive industrial disability benefits under Iowa Code section 85.34(2)(v). Claimant asserts he should be awarded 65 percent industrial disability for the work injury, which would be 325 weeks of PPD benefits.

Defendants assert it should be found on appeal that claimant's permanent disability is limited to his right upper extremity only, and defendants assert that pursuant to Iowa Code section 85.34(2)(m), claimant should be awarded scheduled member disability of nine percent of the right arm, pursuant to the impairment rating of Joseph Chen, M.D., which would entitle claimant to receive 22.5 weeks of PPD benefits. In the alternative, defendants assert the award of 35 weeks of PPD benefits pursuant to section 85.34(2)(t) should be affirmed. Defendants further assert if it is found on appeal that claimant sustained industrial disability as a result of the work injury, it should be found claimant has sustained no loss of earning capacity and the award should be limited to the 22.5 weeks of PPD benefits paid by defendants prior to the arbitration hearing pursuant to Dr. Chen's impairment rating.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties, and I reach the same analysis, findings, and conclusions as those reached by the deputy commissioner.

Pursuant to Iowa Code sections 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on August 3, 2023, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

I affirm the deputy commissioner's finding that claimant proved he sustained permanent disability as a result of the work injury. I affirm the deputy commissioner's finding that based on Dr. Bansal's impairment rating, claimant proved he sustained a right arm injury with a sequela injury to his right leg, and I affirm the deputy commissioner's finding that defendants are liable for claimant's disability under Iowa Code section 85.34(2)(t). I affirm the deputy commissioner's finding that claimant is not entitled to receive industrial disability benefits for the work injury. I affirm the deputy commissioner's finding that claimant sustained seven percent functional impairment of the whole person as a result of the work injury which, under section 85.34(2)(t), entitles claimant to receive 35 weeks of PPD benefits.

I affirm the deputy commissioner's findings, conclusions, and analysis regarding the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed in this matter on August 3, 2023, is affirmed in its entirety.

Defendants shall pay claimant thirty-five (35) weeks of permanent partial disability benefits, commencing on November 18, 2022, at the stipulated weekly rate of nine hundred ninety-six and 75/100 dollars (\$996.75).

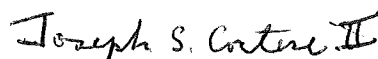
Defendants shall pay accrued weekly benefits in a lump sum together with interest at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent.

Defendants shall receive credit for all benefits previously paid.

Pursuant to rule 876 IAC 4.33, the parties shall split the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 29th day of December, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Gabriela Navarro (via WCES)

Patrick Waldron (via WCES)