WORKMEN'S COMPENSATION: SUICIDE RESULTING FROM MENTAL DISORDER CAUSED BY WORK-CONNECTED INJURY HELD COMPENSABLE

RECOVERY under workmen's compensation acts is generally limited to "accidental injuries . . . arising out of and in the course of the employment."[1] In the recent case of *Harper v. Industrial Commission*[2] the Supreme Court of Illinois was called upon to decide whether death benefits may be awarded when a compensable injury is followed by the suicide of the injured employee.

In the *Harper* case the deceased, while performing heavy work at his employer's warehouse, sustained a severe back injury requiring a major operation. Thereafter, he complained about being in pain and his posture was noticeably altered. There was testimony that he was unable to perform his usual household tasks and that he became moody and depressed. He returned to his job about nine months later, but was given much lighter work than before the accident. Four days later he left work in the middle of the morning and took his own life. His widow, on behalf of herself and her minor child, filed a death benefit petition with the Industrial Commission. The arbitrator found that Harper's injury had caused his death, and, therefore, his widow was entitled to an award. The Commission rejected this finding and held that the death was not "occasioned by or related to" the death. On review the circuit court determined that the Commission's ruling was against the weight of the evidence, and reinstated the award. The Supreme Court of Illinois affirmed the award, holding that since the evidence clearly showed a direct causal relationship between the injury and suicide, it was unnecessary to determine the precise mental condition of the deceased at the time of the suicide.[3]

A claimant seeking death benefits for suicide committed after a compensable injury traditionally has been confronted by a major

[1] ILL. STAT. ANN. ch. 48, § 138 (Smith & Hurd 1950). See, *e.g.*, N.C. GEN. STAT. § 97-2 (1958); N.Y. WORKMEN'S COMP. LAW § 2, § 10.

[2] 24 Ill.2d 480, 180 N.E.2d 480 (1962).

The evidence offered to show the causal connection between the injury and suicide was given by two medical witnesses. A psychiatrist testified that there was a direct causal relationship. He testified that the injury caused a definite psychiatric illness, and diagnosed it as probably being severe chronic depression. The doctor who had performed the operation testified that pain and suffering may bring out hidden behavior patterns that would not occur in a normal individual. *Id.* at 481.

[3] 180 N.E.2d at 483.

obstacle.[4] Some courts have denied recovery in this situation, on the theory that the suicide was an independent intervening cause between the injury and death.[5] Even those courts usually allowing recovery have said that suicide may be an intervening cause.[6] The intervening cause theory in workmen's compensation suicide cases was first enunciated in *In re Sponatski*[7] and has become the majority view in this country. In that case the Massachusetts court stated that where a compensable injury results in insanity, which causes the employee to commit suicide "through an uncontrollable impulse," and having no "knowledge of the physical consequences of his act," there is a direct causal connection between the physical injury and the death.[8] However, when the insanity results in suicide "through a voluntary willful choice," by a person knowing the "purpose and the physical effect of the suicidal act," then, "even though choice is dominated and ruled by a disordered mind," the chain of causation is broken.[9]

The *Sponatski* test, because of its emphasis on volition and knowledge of physical consequences, has sometimes resulted in the denial of

[4] Although intervening cause is the major difficulty confronting a claimant, another obstacle may be encountered. A majority of the workmen's compensation acts contain a provision excluding compensation for "willful self-inflicted injuries." Only Connecticut, Illinois, Michigan, Nebraska, New Hampshire, and Wyoming do not have such a provision. 1 LARSON, WORKMEN'S COMPENSATION § 36.10 n. 66 (1952). Even in those states not having an explicit provision, such as Illinois, a self-inflicted injury generally would not be considered accidental within the meaning of the statute. This position is suggested by the Illinois court in the principal case, — Ill. at —, 180 N.E.2d at 482, quoting from 1 ANGERSTEIN, ILLINOIS WORKMEN'S COMPENSATION 181 (rev. ed. —):

"Suicide and self-inflicted injuries are not accidental injuries within the meaning of the Compensation Act. Where, however, a workman has received an injury which caused a nervous breakdown, followed by terrible sufferings, long continued despondence or insanity, and if during such period he committed suicide, it would probably be attributed to the accidental injury and would be compensable." Thus, in resisting a claim it is often contended that suicide is a self-inflicted injury, and, therefore, there can be no recovery under the act. Although there seems to be some merit to such contentions, in application they have not restricted recovery to any great extent. See Schofield v. White, 250 Iowa 571, 95 N.W.2d 40 (1959); Karlen v. Department of Labor & Indus., 41 Wash. 2d 301, 249 P.2d 364 (1952).

[5] *E.g.*, Tetrault's Case, 278 Mass. 447, 180 N.E. 231 (1932); Industrial Comm'n v. Brubaker, 129 Ohio 617, 196 N.E. 409 (1935); Kasman v. Hillman Coal & Coke Co., 149 Pa. Super. 263, 27 A.2d 762 (1942).

[6] *E.g.*, Delinousha v. National Biscuit Co., 248 N.Y. 93, 161 N.E. 431 (1928); Gasperin v. Consolidated Coal Co., 293 Pa. 589, 143 Atl. 187 (1928); McFarland v. Department of Labor & Indus., 188 Wash. 357, 62 P.2d 714 (1936).

[7] 220 Mass. 526, 108 N.E. 466 (1915).

[8] *Id.* at 530, 108 N.E. at 468.

[9] *Ibid.*

compensation even though there was an admittedly direct causal connection between the injury and suicide.[10] Thus a number of courts have denied recovery where some degree of volition remained, even though the will of the injured employee was governed by a disordered mind resulting from the prior injury.[11] Other courts, though purporting to follow the test, have found the uncontrollable impulse necessary for recovery through manipulation of the intervening cause theory.[12] Indeed, even the court in the *Sponatski* case, after laying down the restrictive test, proceeded to affirm the compensation award.[13]

As the *Harper* case[14] points out, however, the *Sponatski* test assumes that capacity to choose is constant and unvarying, and that the pain and suffering resulting from the injury have no effect upon the rational mental processes of the individual.[15] When suicide occurs under the influence of these forces, it may be that the deceased not only had volition to produce death, but may have actually desired it.[16] Moreover, even if the intervening cause theory were utilized, if the evidence

[10] See Barber v. Industrial Comm'n, 241 Wis. 462, 6 N.W.2d 199 (1942), where the Commission actually found that because of the injury the employee's mind became affected, that a psychosis developed causing him to lose normal judgment, and that he would not have committed suicide had it not been for the mental and physical conditions which resulted therefrom. However, he had knowledge of the consequences of his act, and no compensation was allowed. Another case illustrating the inconsistency of the test is Tetrault's Case, 278 Mass. 447, 448, 180 N.E. 231, 232 (1932), where the court said: "The evidence warranted findings that the employee committed suicide, that he was then insane, and that the insanity resulted from the injury." Notwithstanding this finding, that court failed to award the widow any compensation.

[11] See Industrial Comm'n v. Brubaker, 129 Ohio 617, 196 N.E. 409 (1935).

[12] *E.g.*, Schofield v. White, 250 Iowa 571, 95 N.W.2d 40 (1959); Blasczak v. Crown Cork & Seal Co., 193 Pa. Super. 422, 165 A.2d 128 (1960); Karlen v. Department of Labor & Indus., 41 Wash. 2d 301, 249 P.2d 364 (1952).

[13] 220 Mass. 526, 108 N.E. 466 (1915). In that case there was testimony indicating that the deceased had a "wild look" just before he jumped from the window. Other testimony merely showed that he had become despondent. From this the court inferred that he must have responded to an uncontrollable impulse and, therefore, the suicide was not an intervening cause.

[14] 180 N.E.2d at 482.

[15] The test has been vigorously criticized for its failure to take into consideration the effect which these two forces have on an injured employee. 1 LARSON, *op. cit. supra* note 4, at § 36.20. See Voris v. Texas Employers Ins. Ass'n, 190 F.2d 929 (5th Cir. 1951), for an excellent discussion of how the choice and reasoning facilities of an individual can be affected by such an injury.

See generally MORGAN & STELLAR, PHYSIOLOGICAL PYCHOLOGY 250 (2d ed. 1950), for a medical treatment of pain and suffering.

[16] One prominent psychologist has said that "probably no suicide is consumated unless . . . the suicidal person also wishes to die." MENNINGER, MAN AGAINST HIMSELF 25 (1938). See 45 IOWA L. REV. 669 (1960).

clearly shows that the injury caused a mental disorder which resulted in self-destruction it would seem inaccurate to say that death was "independently" caused.[17] Thus, the Illinois court relied on a leading Florida case, *Whitehead v. Keene Roofing Co.*,[18] which recognized that while suicide may be an independent intervening cause in some cases "it is certainly not so in those cases where the . . . evidence shows that, without the injury, there would have been no suicide; [and] that the suicide was merely an *act* intervening between the injury and the death."[19] Therefore, under this analysis the issue of the employee's volition is irrelevant, and where the evidence tends to establish a causal relationship the suicide should be compensable.

The concept of intervening cause was developed to keep tort liability within reasonable limits, and is applied for the same purpose in workmen's compensation cases.[20] However, any apprehension that the failure to follow the *Sponatski* rule would result in unwarranted recovery is unjustified; even under the view adopted by the Illinois court it is necessary for the claimant to show clearly that the injury resulted in the mental condition which brought about the death. This burden cannot be met merely by offering testimony that after the injury the

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The number of cases in which the deceased knew what he was doing, and yet his action was causally linked to the injury through a disordered mind, show that this pattern is just as prevalent, if not more so, than suicide which results from uncontrollable impulse. *E.g.*, Schofield v. White, 250 Iowa 571, 95 N.W.2d 140 (1959); Prentiss Truck & Tractor Co. v. Spencer, 228 Miss. 66, 87 So. 2d 272 (1956); Maricle v. Glazier, 283 App. Div. 402, 128 N.Y.S.2d 148 (1954); Blasczak v. Crown Cork & Seal Co., 193 Pa. Super. 422, 165 A.2d 128 (1960).

[17] See Barber v. Industrial Comm'n, 241 Wis. 462, 6 N.W.2d 199 (1942); Comment, 5 B.U.L. REV. 233, 236 (1925), where it is said that:

"To say that a condition of injury so excruciating that the sufferer is unable to resist the opportunity to fly from it to the unknown horror of the grave is not the cause of the death, but that the cause . . . is the volition of the sufferer, looks *prima facie* like applying the rule of *novus actus interveniens* to a case not within its reasonable scope, . . ."

[18] 43 So. 2d 464 (Fla. 1949).

[19] *Id.* at 465.

[20] The courts have borrowed the proximate cause concept from cases involving tort liability, where it was developed "to hold the defendant's liability within some reasonable bounds. . . ." PROSSER, TORTS § 49, at 267 (2d ed. 1955). Indeed, the test which the Massachusetts court announced in the *Sponatski* case was first enunciated by that court in a tort liability case, Dainels v. New York, N.H. & H.R. Ry., 183 Mass. 393, 67 N.E. 424 (1903). The court in the *Daniels* case said: "the voluntary, willful act of suicide of an insane person, . . . who knows the purpose and physical effects of his act, is such a new and independent agency as does not come within and complete a line of causation from accident to the death." *Id.* at 399, 67 N.E. at 426.

See generally 1 LARSON, *op. cit. supra* note 4, at § 13.11, § 36.10.

deceased became discouraged and depressed. Rather, there must be clear medical proof that the injury led to the suicide.[21]

By rejecting the *Sponatski* rule in favor of the approach taken by the Florida Supreme Court, the Illinois court has adopted the position of the English courts and an increasing minority in the United States.[22] Under this view, as with any other workmen's compensation case, connection with employment is the primary criteria for allowing recovery.[23] Thus, when there is volition to produce death, and it is clearly shown that this desire is a direct result of a compensable injury, recovery for the suicide should not be denied.[24]

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[21] See Estate of Vernum v. State Univ. of N.Y. College, 4 App. Div. 2d 722, 163 N.Y.S.2d 727 (1957); Seal v. Effron Fuel Oil Co., 284 App. Div. 795, 135 N.Y.S.2d 231 (1954); Widdis v. Collingdale Millwork Co., 169 Pa. Super. 612, 84 A.2d 259 (1951).

[22] The English courts have taken the view that suicide by the employee is compensable if it results from a mental disorder caused by a compensable injury. They do not insist that the employee be entirely devoid of any consciousness of the consequences of the act of self-destruction. See, *e.g.*, Graham v. Christie, 10 B.W.C.C. 486 (Scot. 1916); Marriott v. Maltby Main Colliery Co., 13 B.W.C.C. 353 (C.A. 1920).

A similar position has been taken by a minority of the courts in this country. The Florida court, in Whitehead v. Keene Roofing Co., 43 So. 2d 464 (Fla. 1949), stated that if the suicide would not have occurred but for the injury then compensation should be allowed.

Mississippi, in Prentiss Truck & Tractor Co. v. Spencer, 228 Miss. 66, 87 So. 2d 272 (1956), seems to approve and follow the *Whitehead* case.

New York, since the decision in Pushkarowitz v. A. & M. Kramer, 275 App. Div. 875, 88 N.Y.S.2d 885 (1949), *aff'd*, 300 N.Y. 637, 90 N.E.2d 494 (1950), appears to be followiug the minority view. *E.g.*, Kelly v. Sugarman, 5 App. Div. 2d 1023, 173 N.Y.S.2d 41 (1958); Sulfaro v. A. Pellegrino & Sons, 2 App. Div. 2d 426, 156 N.Y.S.2d 411 (1956).

Additional support for this view will be found in Voris v. Texas Employers Ins. Ass'n, 190 F.2d 929 (5th Cir. 1951) (dictum).

One state which originally followed the majority rule enacted a statute codifying the minority position. MASS. GEN. LAWS ANN., ch. 152, § 26A (1957).

[23] This position is analogous to those cases where a prior injury causes a new injury or is itself subsequently aggravated. See Unger & Mahon, Inc. v. Lidston, 177 Md. 265, 9 A.2d 604 (1939) (ankle injury, employee subsequently fell and fractured his hip); Kelly v. Federal Shipbuilding & Dry Dock Co., 1 N.J. Super. 245, 64 A.2d 92 (1949) (injured knee put in cast, employee subsequently fell down stairs and broke his wrist); Randolph v. E. I. Dupont de Nemours & Co., 130 N.J.L. 353, 33 A.2d 301 (1943) (employee injured his eyes while at work, had to wear dark glasses, subsequently fell down stairs causing the glasses to break puncturing one eye-ball).

See 1 LARSON, *op. cit. supra* note 4, at § 29.10 where the work connection theory is discussed.

[24] See HOROVITZ, CURRENT TRENDS IN WORKMEN'S COMPENSATION 470-72 (1947), where it is poiuted out that:

"[C]ompensation laws were enacted as a humanitarian measure, to create a new

type liability—liability without fault—to make the industry that was responsible for the injury bear a major part of the burdens resulting therefrom. It was a revolt from the old common law and the creation of a complete substitute therefor. . . . It meant to make liability dependent on a relationship to the job, in a liberal, humane fashion, with litigation reduced to a minimum. It meant to cut out the narrow common law methods of denying awards.

The early cases tended to be strict; but the later and modern trend was and is to construe the acts broadly and liberally, to protect the interests of the injured worker and his dependents."