

SCHULMEISTER V. BRITISH COLUMBIA (WORKERS' COMPENSATION APPEAL TRIBUNAL)

Decision Summary

Court	B.C. Supreme Court
Citation	2007 BCSC 1580
Result	Judicial Review Allowed
Judge	Mr. Justice Hinkson
Date of Judgment	October 29, 2007
WCAT Decision(s) Reviewed	WCAT-2005-01084

Keywords:

Dependent survivor – Compensable consequences of work injury – Policy item #22.00 of the Rehabilitation and Services Claims Manual, Volume II

The Court considered a Workers' Compensation Appeal Tribunal (WCAT) decision which denied the Petitioner's appeal for dependant survivor's benefits.

The Petitioner was the widow of Edward Schulmeister, who in 2002 drowned in a fast moving river when a boat that he was operating capsized. Eight years before the accident, Mr. Schulmeister was seriously injured while at work and suffered significant facial injuries, including skull fractures, the loss of his left eye, an injury to his right eye, loss of smell and taste, and decreased sensation to parts of his face. The eye injuries resulted in an impairment of his depth perception. The Workers' Compensation Board, operating as WorkSafeBC (Board) determined that Mr. Schulmeister was permanently and totally disabled from working as a result of the accident and he was provided with a permanent total disability award payable to him for life.

After Mr. Schulmeister's death in 2002, the Petitioner applied for benefits from the Board as a dependant survivor. The Board determined that Mr. Schulmeister's death did not result from his compensable injuries and denied the Petitioner's claim for dependant survivor's benefits. That decision was confirmed by the Review Division. WCAT confirmed the Review Division decision, finding that Mr. Schulmeister's death was not a compensable consequence of his earlier injuries.

On judicial review, the Court set aside the WCAT decision on the basis that the WCAT panel failed to take statutory requirements into account, and thereby exercised its discretion in a patently unreasonable manner. The panel failed to take statutory requirements into account when it inserted a "relative element" into the term "significant cause" in Board policy when such an element was not found in Board policy.