

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. C162499

WILFORD PENDERGRASS,  
EMPLOYEE

CLAIMANT

JONES TRUCK LINES, INC.,  
EMPLOYER

RESPONDENT

TRANSPORT INSURANCE COMPANY,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED JUNE 10, 2004

Upon review before the FULL COMMISSION in Little Rock,  
Pulaski County, Arkansas.

Claimant represented by HONORABLE JASON WATSON, Attorney at  
Law, Fayetteville, Arkansas.

Respondents represented by HONORABLE ROBERT J. DONOVAN,  
Attorney at Law, Marianna, Arkansas.

Decision of the Administrative Law Judge: Affirmed and  
adopted.

OPINION AND ORDER

The respondents appeal from a decision of the  
Administrative Law Judge filed February 10, 2004. The  
Administrative Law Judge entered the following findings of  
fact and conclusions of law:

1. The stipulations agreed to by the parties at  
the pre-hearing conference conducted on  
August 13, 2003, and contained in a pre-  
hearing order filed August 14, 2003, are  
hereby accepted as fact.
2. Claimant's claim for additional compensation  
benefits is not barred by the statute of

limitations or by the doctrine of laches, estoppel or waiver.

3. Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to additional medical treatment as a result of his compensable injury. This includes surgery performed by Dr. Coker.
4. Claimant has proven by a preponderance of the evidence that he is entitled to permanent partial disability benefits in an amount equal to 50% to the left lower extremity as a result of his compensable injury.
5. Respondent has controverted claimant's entitlement to additional medical treatment and to permanent partial disability benefits in the amount of 15% to the left lower extremity.

We have carefully conducted a de novo review of the entire record herein, and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct, and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal. All accrued benefits shall be paid in a lump sum

without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

Since the claimant's injury occurred prior to July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as it existed prior to the amendments of Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$250.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 1996).

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.