

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F210971

INTONG SIVIXAY, EMPLOYEE	CLAIMANT
DANAHER TOOL GROUP, EMPLOYER	RESPONDENT
FIDELITY & GUARANTY INSURANCE GROUP, INSURANCE CARRIER	RESPONDENT

OPINION FILED MARCH 24, 2010

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

Claimant represented by the HONORABLE KENNETH OSBORNE, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JARROD PARRISH, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed as modified.

## OPINION AND ORDER

This matter is currently before the Full Commission on remand from the Arkansas Court of Appeals. In an opinion delivered November 18, 2009, the Arkansas Court of Appeals reversed and remanded the decision of the Full Commission which had reversed the decision of the Administrative Law Judge. Pursuant to this remand, and after a de novo review of the record, the Full Commission is affirming and adopting the October 16, 2008 opinion of the Administrative Law Judge. However,

contrary to Finding No. 3, the Full Commission finds that the Administrative Law Judge actually awarded the claimant 25% wage loss disability. The Full Commission hereby modifies Finding No. 3 to reflect the Administrative Law Judge's award.

In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on July 9, 2008, and contained in a pre-hearing order filed July 10, 2008, are hereby accepted as fact.
2. Claimant has failed to prove by a preponderance of the evidence that he is entitled to additional temporary total and/or temporary partial disability benefits after November 11, 2004, the date he reached maximum medical improvement.
3. Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to permanent partial disability benefits in an amount equal to 20% to the body as a whole as a result of wage loss.
4. Respondent has controverted claimant's entitlement to wage loss benefits in the amount equal to 25% to the body as a whole.

As discussed above, Finding No. 3 should read:

3. Claimant has met his burden of proving by a preponderance of the evidence that

he is entitled to permanent partial disability benefits in an amount equal to 25% to the body as a whole as a result of wage loss.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's October 16, 2008 decision, as modified, 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 made by the Administrative Law Judge, as modified, are correct and they are, therefore, adopted by the Full Commission pursuant to the remand from the Arkansas Court of Appeals.

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 after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by 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

Sivixay - F210971

4

Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

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A. WATSON BELL, Chairman

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PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.