

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 311

September Term, 2016

VOLVO POWERTRAIN OF NORTH
AMERICA, et al.,

v.

CHRISTI FIELDS

Eyler, Deborah S.,
Friedman,
Raker, Irma S.
(Senior Judge, specially assigned),

JJ.

Opinion by Raker, J.

Filed: March 23, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of *stare decisis* or as persuasive authority. Md. Rule 1-104.

This appeal arises from the decision of a Washington County jury on review of an Order of the Workers' Compensation Commission, awarding benefits, and finding that appellee suffered an accidental injury arising out of and in the course of her employment and that the disability was the result of the accidental injury. This appeal addresses the form of the verdict sheet submitted to the jury by the Circuit Court for Washington County. Volvo Powertrain of North America, et. al., the employer, noted this appeal. The primary issue we must decide in this case is whether the circuit court erred in denying appellant's request to submit to the jury a verdict sheet containing a specific question regarding the causal connection of appellant's anterior cruciate ligament ("ACL") knee injury to the alleged work related injury.

Appellant presents the following questions for our review:

- “1. Whether the Circuit Court erred in failing to submit to the jury the issue of whether or not the Appellee's anterior cruciate ligament (“ACL”) tear of her right knee was causally related to her alleged work related injury of January 24, 2014, which was at a minimum, implicitly decided by the Maryland Workers' Compensation Commission?
2. Whether the Circuit Court erred in submitting to the jury a verdict sheet which was formatted in such a fashion as to only ask the question “was the Commission correct” as opposed to directly forwarding to the jury the substantive question(s) for the jury to decide in a *de novo appeal*?”

We shall hold that the circuit court abused its discretion in declining to submit to the jury the specific question of whether appellee's ACL injury of her right knee was causally related to the alleged work related injury and shall reverse.

I.

Christi Fields, appellee, was an employee of Volvo Powertrain of North America. She alleged that on January 24, 2014, she slipped on ice, fell in her employer's parking lot and injured her right knee. Before the Commission, appellant employer contested the claim that appellee employee suffered an accidental injury, and if the Commission found an accident in fact occurred, that the claimed ACL injury to appellee's knee was causally connected to the accident. The Commission heard the claim on May 21, 2015, and entered an Order on May 21, 2015, finding that appellee suffered an accidental injury, which arose out of, and in the course of her employment, and that her disability was the result of the accidental injury. Appellant noted a timely appeal to the Circuit Court for Washington County.

The case proceeded to a one day jury trial in the circuit court on March 30, 2016. At trial, both parties presented medical expert testimony through video testimony of medical doctors. Appellee's expert opined that appellee sustained a torn right ACL and a traumatic worsening of her degenerative joint disease as a result of the January 24, 2014 fall. Appellant's expert opined that appellee's torn right ACL was not the result of the January 24, 2014 fall.

Both parties submitted proposed verdict sheets to the court. Appellant's proposed verdict sheet posed two questions: Whether appellee sustained a compensable work-related injury, and if so, whether appellee's torn right ACL was the result of the alleged injury? Appellee's proposed verdict sheet contained one question: Whether the Commission was correct in finding that the Appellee sustained a compensable work-related

injury related to the alleged January 24, 2014 fall? The court submitted appellee's proposed verdict sheet to the jury. The jury returned a verdict in favor of appellee, finding that the Commission held correctly that appellee sustained an accidental injury arising out of and in the course of her employment on January 24, 2014.

Appellant noted a timely appeal to this Court.

II.

Before this Court, appellant argues that whether appellee's torn ACL was causally connected to the alleged January 24th incident was presented, at least implicitly, to the Commission, and as such, that issue may be raised individually and tried on appeal. Because implicit in the Commission's findings was that appellee tore her right ACL as a result of the accident, appellant claims it was entitled to have that issue presented explicitly to the jury. Appellant's argument is that because the trial judge rejected appellant's proposed jury verdict sheet posing the question and the verdict sheet made no mention of whether the right ACL tear was the result of the January event, the court denied appellant its right to submit that issue to the jury. Appellant claims prejudice in that appellee will likely file for permanent partial disability before the Commission, and appellant fears that the Commission will apply the law of the case doctrine, thereby precluding appellant from raising the issue of causal connection at that time.

Appellee argues that the circuit court's verdict sheet, which asked whether appellee sustained an accidental injury arising out of and in the course of her employment fully and

fairly addressed the issue of appellee’s right ACL tear. Hence, the circuit court did not abuse its discretion in declining to submit to the jury appellant’s proposed verdict sheet. Appellee suggests that the decision of the Workers’ Compensation Commission was presumed correct; that the jury heard testimony regarding appellee’s right knee injury and the circumstances of the alleged injury; and that the verdict sheet clearly presented to the jury the option of checking “no” if it concluded that appellee did not suffer a work related injury during the course of employment. As to prejudice, appellee states that, in the event appellee files for permanent, partial disability, appellant will be free to argue that appellee’s injury was the result of a pre-existing disease or infirmity.¹

III.

Before we address the specific issue presented in this appeal, we look briefly at the procedure by which a party may obtain judicial review of a Commission decision. Md. Code (1991, 2016 Repl. Vol.), § 9-737 of the Labor and Employment Article (“LE”)² provides that a party aggrieved by a decision of the Commission may appeal to the circuit court. LE § 9-745 sets forth the appellate procedure in the circuit court. The statute provides for “two alternative modalities” from the Commission: (1) pursuant to § 9-745(e), which mirrors the appeal process from administrative agency decisions generally, and (2)

¹ At oral argument, however, counsel for appellee indicated that in the event appellee filed for partial, permanent disability, she would argue law of the case doctrine to preclude this argument.

² All subsequent statutory references shall be to the Labor and Employment Article.

pursuant to § 9-745(d), which provides for a trial *de novo*. *Applied Indus. Techs. v. Ludemann*, 148 Md. App. 272, 282-83 (2002).

A *de novo* trial pursuant to § 9-745(d) is different from the ordinary procedure applicable to many other administrative law bodies, where appeal to the circuit court is determined ordinarily on the record made at the agency hearing. At a *de novo* § 9-745(d) trial, the parties may rely on the same or different evidence than was presented to the Commission. *Applied Industries Techs.*, 148 Md. App. at 282. However, by statute, the decision of the Commission is admissible in evidence at the appeal, *de novo* trial, and the jury is to be instructed that the decision of the Commission is “presumptively correct.” *S.B. Thomas, Inc. v. Thompson*, 114 Md. App. 357, 365-66 (1997).

Maryland Rule 2-522 addresses verdicts, and specifically, jury verdicts containing written findings. Rule 2-522(b)(2)(A) gives the court the authority to design submissions to the jury and to format the jury’s findings, and provides as follows:

“The court may require a jury to return a verdict in the form of written findings upon specific issues. For that purpose, the court may use any method of submitting the issues and requiring written findings as it deems appropriate, including the submissions of written questions susceptible of brief answers or of written forms of the several special findings that might properly be made under the pleadings and evidence. The court shall instruct the jury as may be necessary to enable it to make its findings upon each issue.”

While the Rule authorizes the court to use any method to submit the issues, a court’s use of a particular format will not be reversed absent an abuse of discretion. *Applied Industries Techs.*, 148 Md. App. at 287. *See also Consolidated Waste Indus., Inc. v. Standard Equip.*

Co., 421 Md. 210, 220 (2011); *Owens-Corning Fiberglas Corp. v. Garrett*, 343 Md. 500, 525 (1996). An abuse of discretion occurs “where no reasonable person would share the view taken by the trial judge.” *Brown v. Daniel Realty Co.*, 409 Md. 565, 601 (2009). We will not reverse under an abuse of discretion standard simply because we, the appellate court, would not have made the same ruling. *Id.* Significantly, whether a trial court has abused its discretion depends on the particular facts and circumstances of each individual case. *Pantazes v. State*, 376 Md. 661, 681 (2003). In addition, notwithstanding an abuse of discretion, we will not reverse an unreasonable decision without evidence of prejudice or harm. *Consolidated Waste Indus Inc.*, 421 Md. at 219-20.

We hold that the circuit court abused its discretion in declining to submit the specific question to the jury as to whether the alleged accident in question caused appellee’s ACL tear. We emphasize that it is the specific facts and circumstances of this case, and appellee’s pre-existing injury, that compels this result. Before the Commission and before the jury in the circuit court, appellant contested two issues: whether an accident ever occurred, and if it did, whether appellee’s ACL knee injury was caused by the fall or whether it was a pre-existing injury. The general verdict and question presented to the jury did not decide explicitly a key issue: was the ACL knee injury a result of the fall? The medical expert reports disagreed upon the cause of the ACL tear. Appellant’s expert opined that the injury was pre-existing and that appellee suffered a worsening of her degenerative disease. The general jury verdict did not state whether appellee’s ACL tear was causally connected to the accident and the favorable finding could have been that

appellee’s knee was injured in the accident (in that the accident precipitated a worsening of her pre-existing condition) but that the ACL had been torn previously. We do not agree with appellee that simply checking “no” on the verdict sheet would indicate that appellee did not suffer a work related injury and thus, resolve appellant’s concern. The verdict sheet should have addressed the ACL injury specifically.

Keeping in mind our precedent that we do not reverse unless the aggrieved party can show how it was prejudiced, we turn to the next question: how, if at all, was appellant prejudiced? Appellant was prejudiced because, as it asserts, appellee may well file for permanent, partial disability. Based on the general jury verdict, the Commission may well conclude that the causal connection of the ACL injury was decided in appellee’s favor, and based on the law of the case doctrine, bar appellant from litigating or arguing the causal connection issue.

**JUDGMENT OF THE CIRCUIT
COURT FOR WASHINGTON
COUNTY REVERSED. CASE
REMANDED TO THAT COURT
FOR A NEW TRIAL. COSTS TO BE
PAID BY APPELLEE.**