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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of MICHAEL SIMPSON, Appellant
v.
NEW YORK CITY TRANSIT AUTHORITY, Respondent
and
WORKERS' COMPENSATION BOARD, Respondent.
February 18, 2016

Facts: The claimant, a bus driver for 25 years, filed a claim for an occupational disease for both knees. The Law Judge disallowed the claim having credited the opinion of the employer's IME. The claimant sought to reopen the case having argued that recent MRIs conflicted with the opinion of the IME. The case was restored to the calendar and the employer obtained a record review by another IME, who also found no causal relationship. The Law Judge agreed and the Board affirmed in disallowing the claim. The claimant appealed.

Holding: Reversed

Discussion: The Court confirmed the Board's decision will be upheld if supported by substantial evidence on issues of causality. The Board had referenced the claimant used his right knee more than the left knee and stated the MRIs were essentially similar bilaterally and same was relied upon by the second IME. However the MRIs showed more extensive injuries to the right knee that were greater than the left. The Court noted the results also contradicted the opinion of the first IME. Because the Court could not discern what role the inaccurate reading of the MRIs played in the decision, same was reversed and restored to the Board for further consideration.