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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of LEONARD TRICARICO, Respondent

v.

TOWN OF ISLIP. et. al, Appellant

and

WORKERS' COMPENSATION BOARD, Respondent.

February 11, 2016

Facts: In 2001 the claimant sustained multiple injuries in a work related motor vehicle accident, and settled a related third party action. In 2005 he sustained injures to his back and left shoulder in another work related motor vehicle accident and settled a related third party action. In 2013 he was classified a marked permanent partial disability. The Board affirmed that decision and noted the issue of apportionment was not raised before the judge and would not be considered now. The carrier appealed.

Holding: Affirmed

Discussion: The Court noted the Board is entitled to deny review where any issue raised in an appeal that was not raised before the Law Judge or developed at the hearing.