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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Rodney Gerald HERRIS JR., Appellant

v

UNITED PARCEL SERVICE, INC., Respondents

and

WORKERS' COMPENSATION BOARD, Respondent

Decided July 22, 2021

Facts: The claimant's spouse injured her chest at work in 2006. The claim was eventually amended to include the shoulder, knee, back and consequential depression. She underwent a string of surgeries related to same and was classified with a permanent partial disability. She collapsed at home and died in July 2014. A claim was filed for a causally related death which was disallowed by the Law Judge. That decision was affirmed by the Board.

Holding: *Affirmed.*

Discussion: The Court held that while the claimant was not required to show that his wife's work related illness was the sole or most direct cause of her death, he did need to establish by competent evidence that there was a causal relationship between her underlying claim and death. The record confirmed that the decedent died after a night of heavy drinking and a narcotics overdose was suspected. There was no autopsy and no cause of death was listed on the death certificate. The claimant relied upon a record review in which the physician described the patient's lifestyle as being the result of her compensable injuries, pain and emotional trauma. The Board found this report to be speculative and credited the report and testimony of the carrier's consultant. While the consultant noted the claimant's death may be connected to substance abuse issues, it could have also have been solely related to her underlying coronary artery disease. As such based upon the presence of substantial evidence the Board's decision was affirmed.