

## *Szajna and Australian Postal Corporation [2013] AATA 898 (17 December 2013)*

### Key Points

- The Tribunal had to determine whether a heart attack was an injury within the meaning of the SRC Act
- In determining this, the Tribunal had to consider, based wholly on the medical evidence before them, whether the heart attack arose out of employment or whether it was attributed to an underlying coronary artery condition.

### Background

Mr Szajna was employed by Australia Post. On 7 February 2012, Mr Szajna suffered a ventricular fibrillation (heart attack) and subsequently died. His widow, on behalf of Mr Szajna, sought compensation under the SRC Act for Mr Szajna's death. As liability was denied by Australian Postal Corporation, his widow sought review in the Administrative Appeals Tribunal.

There was evidence that prior to Mr Szajna's death, he suffered from an underlying coronary artery condition (**the underlying condition**).

### The Medical Evidence

The Tribunal heard evidence from two cardiologists, Dr Hossack and Professor O'Rourke, in relation to whether Mr Szajna's heart attack was attributable to his underlying condition. While both doctors accepted that Mr Szajna suffered from the underlying condition, there was dispute regarding the extent to which the disease had advanced.

#### Dr Hossack's Medical Evidence

Dr Hossack gave evidence that the heart attack *may* have been a product of the underlying condition; however other events may have triggered the heart attack, such as stress, exertion, viruses and prescription drugs.

Dr Hossack opined that, whilst it is not inevitable that persons with coronary artery disease would experience heart attacks, it is the *most likely* cause of a heart attack.

#### Professor O'Rourke's Medical Evidence

Contrary to Dr Hossack's evidence, Professor O'Rourke advised that the combination of Mr Szajna's post-mortem examination, which evidenced extensive calcification of his coronary arteries and previous episodes of restricted blood supply to his heart tissue, and strong research indicating that coronary artery disease led to heart attacks, provided a very clear link between Mr Szajna's underlying condition and the heart attack.

Professor O'Rourke agreed with Dr Hossack that coronary artery disease does not always result in a heart attack. However, he advised that in Mr Szajna's case, any progression of his underlying condition led to an increased risk that a heart attack would occur at some indeterminate time in the future.

## The Law

Section 5A(1)(b) of the Act defines an injury as:

*“an injury (other than a disease) suffered by an employee, that is a physical or mental injury arising out of, or in the course of, the employee’s employment”*

There was no dispute that Mr Szajna suffered something in the nature of ‘a disturbance of the normal physiological state’, which met the requirement of an injury under the Act.<sup>1</sup>

The question of law to be considered was whether Mr Szajna’s heart attack was a consequence of his underlying coronary artery condition. If so, Mr Szajna’s heart attack would be determined to be wholly attributable to his underlying condition rather than to his employment, and therefore Australia Postion would not be liable to pay compensation.

## Lessons Learnt

The Tribunal’s decision is a good example that, in the case of heart attacks, where it is the inevitable consequence of an underlying arterial condition that a worker will suffer a heart attack, that injury may not be compensable even if it occurred at work. In order to establish the extent of a worker’s underlying condition, it is important for decision maker to obtain a detailed history of the applicant’s condition by requesting medical records and reports from treating practitioners

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<sup>1</sup> *Australian Postal Corporation v Burch* (1988) 85 FCR 264, 269.