



27/10/2009

To Our valued Readers

Before the Labor Government changed the law in November 2002, a worker seriously injured as a result of their employers negligence could apply to an independent Court for a determination of his or her damages and all of the evidence, medical and otherwise, could be given to the Court and tested in cross-examination before a decision as to the extent of injury and disability and entitlement to damages was given.

This NSW Labor Government, through the Workcover Authority of NSW, did not like the independence of the Court, they hated Judges accepting the workers' Doctors opinions over their own insurance based Doctors, so the best way to fix the problem, was to close down the Court and introduce the Workers Compensation Commission and appoint their own Doctors as Approved Medical Specialist. Further, to limit workers entitlements even more they introduced the 5th Edition American Guides to the Evaluation of Permanent Impairment (5th AMA Guides) as the guide to assess injured workers entitlements. These guides state as follows:-

“...the Guides is not to be used for direct financial awards nor the sole measure of disability”

A worker who had suffered a workplace injury , has seen his entitlements fall from \$34700.00 for injuries to his back, right and left legs and sexual organs prior to 01/01/2002 and now after the 01/01/2002 the same claim would be worth \$10,000.00 in regards to 8% whole Person Impairment (WPI) assessed under the 5th AMA Guides.

The worker who suffered the injuries prior to 01/01/2002 would have an entitlement to Pain & Suffering of about one third of a most extreme case i.e. \$16500.00 (greater than 10% = \$10,000.00), whereas the above worker who suffered the same injury post 01/01/2002 would not have an entitlement to pain & suffering. (10% = \$12500.00)

Yet the cost of living and the cost of houses over this period have risen by 150% and the workers entitlements have fallen by 75%. So the gap widens in respect of the well off in our society and those less fortunate, whom have suffered serious injuries.

Injured workers should not be treated as second class citizens. Our society is only strong as its treatment of its weakest members.

Since November 2002 an injured worker can only bring a damages claim if they are assessed by a doctor, appointed by the Government, as having suffered at least 15% whole person impairment. A similar restriction, but imposing 10% whole person impairment, has applied to motor accident claims for some time.

In a recent case, a person was seriously injured in a motor vehicle accident requiring admission to hospital for 14-days. That person suffered fractures to ribs, serious fractures to both legs and injuries to both knees, requiring surgical repair, a brain injury which required admission to a brain injury rehabilitation unit and speech and occupational therapy and the person was on crutches for 4-months.

The injured person, previously in full-time employment, was at the time of medical assessment, not able to work and was in receipt of a disability pension, still suffered from the effects of the brain injury, was in constant pain and the knees continued to give way. It is unlikely the person was ever going to return to their pre-injury employment.

Notwithstanding this considerable disability and effects from the motor vehicle accident the Government appointed doctor, whose decision could not be appealed, found a whole person impairment of less than 10% meaning that the injured person was not entitled to claim damages for their pain and suffering.

That seriously injured person had no hope of being assessed at 15% WPI which is necessary before a claim could be brought against a negligent employer.

The Labor Government would have you believe that the rights of seriously injured workers have not been affected and have been improved by recent

changes to Workers Compensation Legislation. The above example shows clearly that those assurances are misleading and untrue.

The Restore the Workers Rights Party has been established to represent the workers of this State, something the Labor Government is certainly not doing. They seem more intent on protecting the rights of employers and Multi-National Insurance Companies.

Support the Restore the Workers Rights Party at the next State election to ensure that workers at least have some voice in the Parliament.”

If you are disillusioned with the NSW Labor Government and would not vote for the Liberal Party, then cast your vote in the Upper House for the Restore the Workers Rights party and let us keep the “bastards honest”.

Yours faithfully,

Restore Workers Rights