

***Kristina Steets v. Celebration Fireworks, Inc.*, 512 C.D. 2022
(Pa. Cmwlth. May 8, 2023)**

In a reported *en banc* Opinion, the Commonwealth Court held that a previous award for specific loss benefits is not payable following an injured worker's death resulting from a work injury, at least where the injured worker had no dependents.

The claimant suffered catastrophic injuries at work on June 30, 2017, when a fireworks display exploded. Employer accepted the claim and started paying TTD benefits. The claimant then filed a Claim and Review Petitions to define the injuries and claimant's specific-loss benefits separate and apart from the other injuries. The WCJ granted the petitions and amended the claimant's injuries to consist of "multiple body part amputations", including loss of use of both arms, along with a host of other serious impairments. The WCJ ordered that once the claimant's total disability benefits ceased, the claimant would be eligible for specific-loss payments for the loss of her appendages in the amount of 840 weeks of compensation. The employer appealed, and the Board affirmed.

The employer then appealed to the Commonwealth Court on November 5, 2020. On November 28, 2020, the claimant died from complications from her work-related injuries, at which time the employer stopped paying TTD benefits. It does not appear that the claimant had any qualifying dependents under the Act. Since there were no qualifying dependents, no fatal claim could then be filed.

Prior to the Commonwealth Court's decision, the claimant's Estate filed Claim, Review and Penalty Petitions, essentially seeking payment of funeral expenses, the WCJ ordered specific-loss benefits and a penalty for failing to pay the specific-loss benefits. The Judge ordered the payment of the funeral expenses but dismissed the Review and Penalties Petitions based on the failure to pay the specific-loss award. The Board affirmed, and the Estate appealed to the Commonwealth Court.

The Commonwealth Court also affirmed, relying on Section 306(g) of the Act and the applicable precedent, indicating that when an employee dies due to a work-injury while collecting total disability benefits and before specific-loss benefits are payable, the only specific-loss payments that they feel are reasonable up to \$7,000.00 in funeral expenses to be paid to the funeral home.

In this case, the claimant was receiving total disability benefits and was awarded specific-loss benefits that would commence after her total disability ceased. Claimant's work-related injuries caused her death. She had no dependents with rights to either her total disability or specific-loss benefits when she died. Employer's only statutory obligation was to pay \$7,000.00 in funeral expenses to the funeral home.

In this case, the 840 weeks of compensation, although awarded prior to the claimant's death, was not payable because an individual cannot collect total disability benefits and specific-loss benefits simultaneously. It was a very unfortunate decision and outcome.