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Our ref RMD:8320699

Your ref 11.12.1150

22 November 2012

Attention: Mr Michael Crandon MP, Chair
 Finance and Administration Committee
 Parliament House
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Dear Mr Crandon MP

Inquiry into the operation of Queensland's Workers' Compensation Scheme

Thank you for the opportunity to make a final submission for consideration by the Committee.

At the public hearings, discussion was had about the imposition of a permanent impairment threshold for access to common law damages.

It is relevant for the Committee to note that there is no other form of compensation which imposes such a barrier to access to common law. A person injured in a motor vehicle accident does not have to show a permanent impairment over a certain threshold to access damages. Similarly, a person alleging negligence by a shop owner or occupier does not have to show a particular level of impairment to commence a damages claim.

In cases involving motor vehicle or public liability injuries, the defendant has no prior knowledge of the injured person. In many cases, they have little control over the circumstances in which injury might occur.

By comparison, an employer has the power to direct an employee to work under certain conditions, has control over the physical environment where the work takes place and control over issues of staffing and resources.

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Overall, the employer is in a much better position to act to prevent injury, if motivated to do so. To impose a permanent impairment threshold would be demotivating for many employers.

Work Health & Safety

The *Work Health & Safety Act* enables the Queensland government to levy heavy penalties on employers.

The Act permits penalties of up to \$3million for recklessly exposing a person to **risk** of serious injury, even if there is no injury.

The Act permits penalties of up to \$1.5million for exposing a person to **risk** of serious injury, even if there is no injury.

The Act permits penalties of up to \$500000 against a company for not complying with a health and safety duty, even if there is no injury.

It is incongruous to enable the government to recover such penalties, where there is no injury, but to exclude a worker (who has an injury) simply because the injury is below an arbitrary permanent impairment threshold.

Current limits on amount of compensation

The 2010 amendments imposed a limit on the amount of compensation an injured worker can recover, based on their impairment percentage.

We submit the limits on the amount of compensation recoverable by an injured worker, as imposed by the 2010 amendments, are appropriate and sufficient. The limits line up with other types of damages claims, such that a worker injured at work would receive the same compensation as a person with the same injury from a motor vehicle accident.

In our submission, creating disparity between the same injury occasioned at work or not at work is indefensible.

We also submit that limiting the amount of compensation is more palatable for the voting public, rather than barring access to compensation altogether. It balances the need to fairly compensate people injured in the course of their work, against the need to motivate employers to provide safe work environments, and the current economic climate.

Conclusion

We submit imposing arbitrary thresholds on common law damages cannot be justified, and would be widely unpopular (in the general public, not in employer associations).

The approach of the 2010 amendment to limiting, rather than barring, compensation provides a better balance between the competing interests in this area of law.

Yours faithfully

TressCox

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