



Ohio Supreme Court closes loophole barring concurrent payments to injured workers

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Today, the Ohio Supreme Court [ruled](#) that an injured worker is not entitled to both permanent and total disability benefits and permanent partial benefits in the same claim. This is a great decision for employers who have been faced with paying both where the Industrial Commission ruled permanent and total disability was based on either the physical or psychological conditions in a claim.

In the case of *State ex rel. Ohio Presbyterian Retirement Servs., Inc. v Indus. Comm.*, Sherry Redwine filed a workers' compensation claim after her Aug. 13, 2003, injury. The Industrial Commission awarded her permanent total disability benefits based on her psychological condition. Subsequently Redwine applied for permanent partial disability compensation based on the physical conditions allowed in her claim. The Industrial Commission concluded Redwine was not barred from concurrent compensation for permanent partial disability if the claim was based on conditions that were not the basis for the prior finding of permanent total disability in the same claim. Redwine's employer, the Ohio Presbyterian Retirement Services Inc., appealed the ruling on mandamus up through the Ohio Supreme Court.

The Supreme Court acknowledged that the Ohio General Assembly has allowed the payment of concurrent awards in limited circumstances but also found that the state statutes involved in this case, specifically O. R.C. §§ 4123.57 and 4123.58, do not "expressly [authorize] concurrent payment of permanent-partial-disability and permanent-total-disability compensation." The court further reasoned: "Our conclusion is also reinforced by the purpose of permanent-total-disability compensation—to compensate for the impairment of earning capacity....It logically follows that a claimant who is receiving permanent-total-disability compensation is ineligible for concurrent permanent-partial-disability compensation based on a different condition in the same claim." This decision overturns the appeals court's decision and grants the writ of mandamus.



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