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News

TEXAS SUPREME COURT HOLDS TEXAS WORKERS' COMPENSATION ACT DOES NOT DEPRIVE TRIAL COURT OF SUBJECT MATTER JURISDICTION TO REVIEW IMPAIRMENT RATING

Newsbrief

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In *American Zurich Ins. Co. v. Samudio*, -- S.W.3d --, 2012 WL 2476798, No. 10-0554 (Tex. June 29, 2012), American Zurich appealed a decision issued by the Division finding that an insured worker, Daniel Samudio, had an impairment rating of twenty percent. Under the Texas Workers' Compensation Act, an injured worker's impairment income benefits are determined in part by the impairment rating assigned by the Texas Department of Insurance's Division of Workers' Compensation. TEX. LAB.CODE §408.121(a)(1). While section 410.310(c) of the Act limits the evidence that a trial court may consider in reviewing an impairment rating assigned by the Division and precludes the court from assigning a rating that was not presented to the agency, it does not prevent the court from setting aside an invalid rating and remanding to the Division for further proceedings.

American Zurich appealed the impairment decision to district court contending that the impairment rating the Division assigned was invalid, and that Samudio had either no impairment rating, or that the correct rating was ten. Samudio filed a plea to the jurisdiction contending that the trial court lacked subject matter jurisdiction because the trial court was not empowered to provide the relief American Zurich sought. Samudio argued that American Zurich's petition presented no justiciable controversy because the trial court was only empowered to award an impairment rating that was presented to the agency, and the only rating before the agency was the twenty percent rating. The trial court granted Samudio's plea and dismissed the case. The court of appeals affirmed.

On appeal before the Texas Supreme Court, Justice Debra Lehrmann issued an opinion for the court holding that the Texas Workers' Compensation Act did not deprive the trial court of subject matter jurisdiction to resolve an impairment rating appeal. The Court therefore reversed the court of appeals' judgment and remanded to the trial court for a determination as to whether an impairment rating had been properly made in conformance with the Guides to the Evaluation of Permanent Impairment and presented to the Division. The Court instructed that, if the trial court found no impairment rating had been properly issued, the matter should then be remanded to the Division for a new impairment determination.