



Workers' Compensation Benefits for Loss of Teeth

Workers' compensation benefits are applicable for all types of accidental injuries that arise out of the course and scope of an individual's employment. This would include any injury to the mouth that results in losing one or more teeth, wherein the injured worker would be provided with the necessary medical/dental care and monetarily compensated for any lost teeth. However, the Arizona Court of Appeals' (Division One) recent decision in *Carl Truelock v Industrial Commission* describes an attempt to interpret the applicable workers' compensation statute in such a manner as to prevent an entitlement to compensation payments based solely on the loss of any teeth.

Carl Truelock, a mechanic, struck his nose and mouth on the running board of a truck that was on a lift in 2004. Initially, his claim was closed without permanent impairment, but it was reopened in 2008 in order for him to undergo numerous dental procedures. Ultimately, all of his original teeth were replaced with permanent implants. In December of 2009, the workers' compensation carrier for Truelock's employer again closed his claim without permanent impairment. However, Truelock, through counsel, asserted that he was entitled to permanent partial disability (PPD) benefits for the loss of teeth and requested a hearing before an Industrial Commission of Arizona (ICA) administrative law judge (ALJ). After a hearing, the ALJ ruled that Truelock was not entitled to PPD benefits. His attorney then petitioned to request that the ALJ review his original decision. After his review, the ALJ amended his original decision and ruled that Truelock was entitled to \$23,760 in PPD benefits based on 55 percent of his average monthly wage (AMW) for a period of eighteen months. As a result, Truelock's employer sought appellate review of the ALJ's decision.

Truelock and his employer disagreed over the proper interpretation of A.R.S. § 23 – 1044 (B) (22), which included verbiage pertaining to both "loss of teeth" and "permanent disfigurement about the head or face." On the one hand, Truelock asserted that the statute mandated that a loss of one or more teeth required the payment of PPD compensation according to a schedule established by the ICA, with payments ranging from .64 months for the loss of one tooth to 18 months for, as in this case, the loss of all 28 teeth. Furthermore, the statute did not require that any loss of teeth be accompanied by permanent disfigurement in order for an injured worker to be entitled to PPD benefits. Conversely, Truelock's employer argued that A.R.S. § 23 – 1044 (B) (22) required that permanent disfigurement must also be present, or PPD benefits were simply not applicable when based solely on a loss of teeth.

The court acknowledged that both proffered interpretations of A.R.S. § 23 – 1044 (B) (22) were plausible. However, the court also stated the statute in question became law over fifty years ago and had a limited legislative history; thus, ascertaining the legislative intent behind it was problematic. Therefore, the statute's meaning had to be interpreted "liberally" to ensure that injured workers "receive [the] maximum available benefits." The court also found it "significant" that the ICA had "a long-standing and consistent policy of interpreting § 23-

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1044(B) (22) in the manner Truelock advocates” – PPD benefits are due solely “on the number of teeth lost, regardless of whether there is accompanying disfigurement.”

In determining this interpretation, the court further acknowledged that Truelock’s employer’s position had credence in light of “the significant advances in dental technology that have occurred” since the statute’s enactment. Indeed, the claimant’s oral and maxillofacial surgeon had testified that Truelock had actually sustained a “positive impairment or whatever the opposite of that is, meaning that these teeth of his, he’s been given a gift, and I’m sure his existing teeth prior to the injury were not in anywhere nearly as nice a shape as these are.” However, the court commented that a determination of this statute’s current usefulness and validity in its present form was “a policy matter for the Legislative branch to consider.”

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