

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H110010

| | |
|----------------------------|------------|
| RONNIE CARPENTER, Employee | CLAIMANT |
| JR'S TRUCKING, Employer | RESPONDENT |
| CCMSI, Carrier | RESPONDENT |

OPINION FILED SEPTEMBER 26, 2023

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant represented by EDDIE H. WALKER, Attorney at Law, Fort Smith, Arkansas.

Respondents represented by GUY ALTON WADE, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On June 29, 2023, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on April 4, 2022, and a Pre-hearing Order was filed on May 4, 2022. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The relationship of employee-employer-carrier existed between the parties on December 22, 2021.
3. The claimant was earning sufficient wages to entitle him to compensation at the weekly rates of \$736.00 for temporary total disability benefits and \$552.00 for permanent partial disability benefits.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant sustained compensable injuries to his back, ribs, and lower extremities on December 22, 2021.
2. Whether Claimant is entitled to temporary total disability benefits from December 23, 2021, through April 25, 2022.
3. Whether Claimant is entitled to payment of medical expenses.
4. Whether Claimant's attorney is entitled to an attorney fee.

Claimant's contentions are:

"a. The Claimant contends that the motor vehicle accident arose out of and in the course of his employment and therefore the resulting injuries are compensable.

b. The Claimant contends that he is entitled to temporary total disability benefits from December 22, 2021, until a date yet to be determined and reasonably necessary medical treatment.

c. The Claimant contends that his attorney is entitled to an appropriate attorney's fee."

Respondents' contentions are:

"Respondents contend that the claimant did not sustain a compensable injury in the course and scope of his employment and therefore is not entitled to medical or indemnity benefits."

The claimant in this matter was a 68-year-old-male on December 22, 2021, when he was in an undisputed motor vehicle accident while performing employment services for the respondent. The claimant passed away on April 25, 2022, due to reasons unrelated to the injuries he sustained during the December 22, 2021, motor vehicle accident. The Commission has been asked to determine whether the claimant sustained compensable injuries to his back, ribs, and lower extremities in the December 22, 2021, motor vehicle accident. The claimant was a long-

haul truck driver employed by the respondent on the day of the accident. The claimant had already traveled over 500 miles before the accident occurred. The accident took place in the state of Kansas on a highway named U160. The Kansas Motor Vehicle Crash Report is found at Claimant's Exhibit 3 and makes up the entirety of that exhibit. The report states D.L. Hebbard of the Kansas Highway Patrol was the investigating officer. The report provides a summary. That summary follows:

Summary:

On 12/22/2021 at approximately 1833 hours, I responded to a single vehicle CMV rollover on U160 highway at mile post 146 in Clark County at the request of the Clark County Sheriff's Department. I proceeded to the scene and arrived at 1709 hours. Clark County Sheriff's Department and Clark County Fire Department were on scene when I arrived. Clark County EMS had already been on scene and left with the driver enroute to Ashland Medical Center.

On-Scene Investigation:

At the scene of the incident, U160 is a straight and slightly sloped asphalt road. U160 is a two-lane road, with east and west lanes of travel.

There are shoulder and edge lines present at the scene of the collision. When I arrived on scene, I observed tire marks in the east and west bound lanes from V1.

The incident occurred with a 2019 International truck-tractor VIN: 3HSDZAPR4KN672954 bearing Indiana Registration: 2735215. The driver was identified as Ronnie Carpenter. The Arkansas driver's license: 904098200 is a valid class A CDL with no endorsements and a corrective lenses restriction. The driver was not restrained. No air bags were deployed during impact. The driver was transported to Ashland Medical Center in Ashland, Kansas for his injuries. There were no passengers. V1 is owned by Ryder Rental Truck Inc. An exterior examination of the vehicle showed damage to the entire vehicle. V1 was pulling a 2019 Great Dane trailer VIN: 1GRAA0620KW126603 bearing Indiana Registration: P787931. An exterior examination of the vehicle

showed damage to the right side of the trailer, the top rail, and nose area.

Driver Statement:

D1/V1 (Ronnie Carpenter):

Witness statement was obtained by Trooper Jacks while at the hospital.

“was on the road and next thing I knew I wasn’t, the only thing I remember is that the road was narrow.”

Vehicle in motion/Physical Evidence:

V1 was east bound on U160 highway. V1 left roadway for an unknown reason still traveling east bound partly in the ditch. V1 ran over a culvert. D1 then overcorrected, going left of center before coming back into the driving lane. The vehicle tripped during the overcorrection causing it to overturn. V1 came to rest in the south ditch in a culvert on the right side of the vehicle.

Weather:

Weather conditions are not believed to be a contributing factor in this collision.

Collision Facts:

Evidence on scene indicates V1 left the roadway, driving in the ditch until he drove over a culvert. D1 overcorrected back onto the roadway, going left of center the back into the driving lane before the vehicle overturned. V1 came to rest in the south ditch. The truck-tractor came to rest in/on a culvert and the trailer was on solid ground. Both the truck-tractor and trailer were laying on the right side, facing east bound.

Vehicle Disposition:

V1 was a 2019 International truck-tractor VIN: 3HSDZAPR4KN672954 bearing Indiana Registration: 2735215. V1 was pulling a 2019 Great Dane trailer VIN: 1GRAA0620KW126603 bearing Indiana Registration: P787931. The truck-tractor and trailer were towed by Southwest Towing to their lot in Dodge City, Kansas.

The parties jointly entered a video clip of the accident itself. The video is supposed to have a camera view facing the driver and a view looking out from the cab. However, the inward cab view is obstructed, and the outward cab view is predominately of the semi-truck's hood.

After the motor vehicle accident, the claimant was transported to the Ashland Health Center emergency department in Ashland, Kansas. Following is a portion of the medical record dated December 22, 2021, upon the claimant's admittance:

History of Present Illness

Patient is a 68 y/o male unrestrained driver of semi truck that was involved in single vehicle rollover accident tonight. He reports that he doesn't remember the accident well. He remembers driving and then his semi "went squirrely" and he wrecked. EMS reports that semi was found rolled down an embankment 18 feet down and landed on its top. Patient was tossed "out the window" of his truck and found in the grass. He complains of intense low back and bilateral flank pain. He has pain in right posterior ribs. Denies LOC, but states he was "dazed" because it happened so fast. Denies ETOH or illicit drug use.

Assessment/Plan

1. MVA unrestrained driver V89.2XXA
2. Fracture of rib of right side S22.31XA
3. Fracture of transverse process of lumbar vertebra S32.009A
4. Abrasions of multiple sites T07.XXXA
5. Brain mass G93.89
6. Retroperitoneal hematoma K66.1

The claimant underwent multiple CT scans to various body parts at Ashland Health Center on December 22, 2021. Portions of those diagnostic reports follow:

CT Spine Lumbar

Impression:

1. Acute fractures of the right transverse processes of the L1 and L2 and L3 vertebra with psoas hematoma. Fracture of the right 12th rib.
2. Prior lumbar fusion at L4-5 and L5-S1.
3. Multilevel degenerative disease of the lumbar spine.

4. Enlarged lobulated appearance to the left adrenal gland could represent an adrenal hematoma versus adrenal mass.

CT Brain

Impression:

1. No acute intracranial hemorrhage.
2. Suspected 4.3 cm mass in the left occipital lobe with surrounding vasogenic edema. MRI with contrast recommended for further evaluation.

CT Cervical Spine

Impression:

1. No acute cervical spine fracture identified.
2. Multilevel mild degenerative disease of the cervical spine.

CT Chest

Impression:

1. Evaluation for trauma limited by IV contrast. Aortic injury not excluded.
2. Acute right 10 ½ 12 rib fractures with associated soft tissue hematoma. No pneumothorax. Small right pleural fluid collection.
3. Large 3.9x6.4x5.5 cm left perihilar mass concerning for malignancy with associated adenopathy.
4. Emphysema.
5. No thoracic spine fracture identified.

CT Abdomen and Pelvis

Impression:

1. Evaluation for trauma limited by lack of IV contrast. No acute intra-abdominal trauma identified. No gross solid organ laceration identified however laceration could potentially be missed.
2. Acute fractures of the right transverse processes at L1-L2 and L3 with associated psoas/retroperitoneal hematoma.
3. No acute pelvic or hip fracture. Prior ORIF or right femur fracture.
4. Enlarged lobulated left adrenal gland may represent metastatic disease versus adrenal hematoma.
5. Urinary bladder demonstrates wall thickening which may be due to cystitis versus under distention versus chronic bladder outlet obstruction. Multiple posterior diverticula are noted. Prostate gland appears enlarged.

That same day a decision was made by medical providers at Ashland Health Center to have the claimant transferred to Wesley Medical Center in Wichita, Kansas. A pre-hospital care report found at Claimant's Exhibit 1, page 19 states, "Due to patient condition Wesley Medical Center was contacted and accepted transfer of patient for trauma services not offered at Ashland." The claimant was then flown from Ashland Health Center to Wesley Medical Center.

At Wesley Medical Center, Dr. George Phillip, a trauma surgeon, issued a medical report regarding the claimant on December 23, 2021. Following is a portion of that report:

History of Present Illness:

This is a 68-year-old male who was operating a semi-truck when he had an accident described as a rollover type accident. He did self extricate. He was complaining of right ribs and right flank pain. He was evaluated at an outlying facility where he was found to have rib fractures, transverse process fractures, and has been transferred to Wesley for further eval. He rates his pain as a 9/10, describing the pain to be over his right flank area and down into his leg. The patient denied a loss of consciousness at the time of the accident.

ASSESSMENT AND PLAN:

Dr. Phillip is present in the Trauma Bay, does review with me the patient's history, physical exam, radiographic findings, and determines the following assessment and plan: A 68-year-old male involved in a semi-accident with right posterior 10th, 11th and 12th rib fractures, transverse process fractures of the right T11, L1, 2, and 3. Multiple abrasions, right psoas muscle hemorrhage. Incidental finding of left adrenal gland mass, left perihilar mass, and left occipital lobe.

Plan:

We are going to place the patient on the regular trauma floor. We will work on obtaining adequate pain control as he is having quite a bit of pain in the right flank and back. We will recheck his hemoglobin and BMP in the a.m. The patient was informed of his incidental findings at the outlying facility, but we will need to make sure the patient is aware of his need for followup when he is able to return to his local community.

That same day another medical record was issued regarding the claimant. It appears that report was prepared by both Dianna Mohny, PA, and Dr. Rajesh Sadasivuni. Following is a portion of that record:

HPI:

68/M transferred from Ashland Health Center, Ashland Kansas after being involved in a semitruck single vehicle rollover accident. He was an unrestrained driver traveling highway speeds, rolled down an embankment, and self extricated. Falls trying to stand after the accident and was losing his balance, right lower extremity painful paresthesias, from his thigh to his ankle, no specific dermatomal pattern. Transfer to an outside facility where work-up revealed 4.3 cm mass in the left occipital lobe with surrounding vasogenic edema, Spinous process fractures L1, 2, 3, with a history of prior L4-S1 lumbar fusion, R T-12 posterior rib fractures right psoas muscle hematoma, incidental findings of left perihilar mass, left occipital mass, left adrenal mass, medical history including HTN, HLD. Retrograde amnesia of the events. No shaking or seizure type activity prior to the accident, no previous strokes, seizures, tremors, CP, SOB, bowel bladder incontinence, denies headache, N/V, visual changes, known carcinoma.

Initial ED eval at OSH; BP 172/143, P 90, lactic acid 2.9, creatinine 1.2, alcohol level 0, blood sugar 118, drug screen opiate positive.

CT head with left occipital lobe 4.3 cm mass with surrounding vasogenic edema.

CT of the C-spine negative for acute fracture.

CT thoracic-acute right posterior 10,11,12 rib fractures associated with soft tissue hematoma, acute fracture of the T11 right transverse process fracture, perihilar mass.

CT chest with lobulated left perihilar mass measuring 3.9x6.4x5.5 concerning for malignancy.

Acute right T10-11 12th rib fractures.

CT abdomen/pelvis-enlarged lobulated left adrenal gland 7.5x4 cm likely representing metastatic disease given the chest mass. L1, 2, 3 TP fractures on the right.

Physical Exam

Neuro comment:

General appearance: alert, awake, oriented
Head/Eyes: atraumatic, clear cornea
Neck: non-tender, supple/no meningismus, no bruit/NL carotids, no masses or swelling
Cardiovascular: regular rate and rhythm, normal heart sounds, no murmur
Respiratory: aerating well, clear to auscultation, no distress
Abdomen: non-tender, soft, no distention
Neuro comments:
Mental status-alert, awake, oriented to time, place and person.
Speech is non-dysarthric, expression and comprehension of speech is intact. Naming and repetition is intact.

CN:

II – Visual fields are intact. Pupils are 3mm RE & LE.
III, IV & VI – EOMI, Normal saccades. No ptosis, diplopia, oscillopsia.
VII – Normal face with intact naso-labial fold.
VIII – Hearing is intact to normal conversation.
IX & X – Palate elevation, phonation normal.
XI – Neck extension/flexion, shoulder shrug – 5/5.
XII – Tongue movements are intact.

Motor:

RUE 4/5
RLE 4/5
LUE 5/5
LLE 5/5. RLE fasciculations.

Sensory: Impaired gross & light touch. R leg no dermatomal pattern from thigh to ankle

DTRs: Biceps, Triceps, Brachioradialis -3 + b/l symmetrical. Knee 3 +, Ankles-2 + b/l symmetrical.

Plantars are going upgoing.

Gait: Able to stand and walk.

Cerebellar

FNF – intact bilaterally.

Assessment:

#New onset of RLE painful paresthesias, since MVA DDX: Lumbar plexopathy, lumbar radiculopathy, in light of his severe stenosis, with adjacent level disease above his previous fusion. No significant weakness on exam.

#Incidental finding 4 cm left occipital lobe brain lesion with associated vasogenic edema.

#Incidental finding left perihilar lung mass, left adrenal gland mass/hematoma.

#CAD s/p CABG

#HTN

#DLD

#COPD by Chest CT

#Multiple orthopedic injuries from his rollover MVC, R10-12 posterior rib fractures, Rt T11, L1-3 fractures.

#Right psoas muscle hematoma.

#Previous lumbar fusion, L4-5 and L5-S1, CT revealed moderate adjacent level disease L3-4.

#Tobacco use.

#Devious right femur fracture s/p ORIF.

Physician Attestation

Agree w/findings & plan:

Additional comments.

Patient is involved in RTA associated with concussion. Unknown reasons for accident. On admission, patient is noted have left occipital lobe mass on CT head, Adrenal gland mass.

CXR shows large left upper lobe mass with hilar adenopathy.

Suspect possible brain metastasis.

Right lower extremity numbness, could be plexopathy.

Will check MRI brain WWO, routine EEG.

Plan to start AED based on EEG.

Thank you for consulting neurology. 70 minutes spent on the patient face-to-face and on the floor more than 50% is spent in counseling and co-ordination of care. I have independently reviewed the labs, images, medical records and explained diagnosis, prognosis plan and care from neurology standpoint to the patient and nursing staff. Patient has verbalized understanding and answered the questions to his satisfaction.

On December 24, 2021, Dr. Pavan Reddy issued a medical record regarding the claimant.

Following is a portion of that report:

HPI

Chief complaint:

68 year old gentleman, admitted for trauma service post MVA, with incidental finding of hilar mass, adrenal lesion and CNS lesion.

Diagnosis, Assessment & Plan

- A. 1. Left Hilar Mass with adrenal and CNS lesion with extensive smoking history – most consistent with bronchogenic carcinoma.
2. Rib and Vertebral fracture 2nd to trauma.
3. Psoas muscle hematoma.

- Rec: 1. CT chest/abdomen/pelvis with contrast.
2. Concur with plan for seizure prophylaxis and dexamethasone.
3. CT guided biopsy of hilar mass for pathological confirmation.

Discussed plan with Mr. Carpenter and wife at bedside, about imaging finding, need for biopsy. He lives in Arkansas and wishes to go home, both Mr. Carpenter and wife inform me that they have an established primary care doctor and can get in to see him early next week, he does not want to wait for biopsy results.

Given that he is clinical stable from a malignancy standpoint I think it is reasonable to pursue a biopsy in Arkansas, but explained and emphasized about urgency in follow up, NO DRIVING and if he clinically had worsening symptoms would need to be seen in local ER. Would recommend carry all records for WCM post discharge.

Will obtain CT scan, will await his decision on biopsy at Wesley vs in Arkansas. Discussed case with Primary team – Calder Young.

On December 25, 2021, Calder Young, PA, issued comments into the claimant's medical record. Those comments follow and are found at Respondents' Exhibit 1, page 36.

Subjective

Comments:

Vitas have been stable overnight, pt did have increased O2 requirements to 3L /min. Pt states overall his pain is well

controlled and currently rated 4/10 mostly to his R flank. R. leg still “feels off” but unchanged since yesterday. Pt states he has had recent history of confusion/difficulty breathing over the past few weeks but didn’t know what was happening, attributed it to the weather changes. No family at bedside this AM.

On December 26, 2021, Dr. Craig Sudbeck authored a medical record titled, “Physician’s Attestation.” It is found at Respondents’ Exhibit 1, page 54, and follows:

Physician Attestation

Agree w/findings & plan:

Patient seen and examined on 12/26, agree with the findings and plan as documented by Amber Hankins, APRN. No significant changes overnight. Balance and memory issues remain his primary issue at this point. He did undergo exercise oximetry and will need home oxygen. I did have a lengthy discussion with him again about therapy’s recommendations for rehab. I do not think he will make much progress in rehab as I believe that his motor vehicle accident was a result of his brain tumor. He has been having issues with balance, memory, and physical activities for the last few weeks even before his accident. I am concerned that if he goes to rehab he will not significantly improve from his current state and this will very likely lead to delay in diagnosis and treatment of his lung adrenal, and brain malignancies. I had a very candid discussion with him about this and we came to the agreement that he will discharge on oxygen and will be able to go back to Arkansas on private vehicle with his wife. On arrival they will immediately seek medical care said he can begin getting worked up for his brain, lung and adrenal masses. I did make it very clear to him that therapy’s recommendations were rehab but he does not wish to go to rehab which I understand given the findings of his recent scans. He does agree to go home with oxygen and we will get that set up prior to dismissal.

Another “Physician’s Attestation” was done by Dr. Rajesh Sadasivuni on December 28, 2021. It follows:

Physician Attestation

Agree w/findings & plan:

Patient is seen and examined by me.

Left occipital lob mass most likely metastatic cancer. Primary is unknown.

BRivact 50mg BID for suspicion of seizure causing MVA. Driving restrictions and seizure precautions. On decadron with slow titration until he sees his PCP and oncologist in Arkansas. Pending discharge home.

15 minutes spent on the patient face-to-face and on the floor.

The claimant was discharged from Wesley Medical Center on December 29, 2021.

Following are portions of the claimant's discharge summary:

Discharge date: 12/29/2021

Admission diagnosis:

MVC – Semi

R posterior rib fractures 10-12

Hypoxia

Transvers process fractures R T11, L L1-3

R psoas muscle hematoma

Sacral/buttock abrasions

RLE paresthesias

Discharge diagnosis:

R posterior rib fractures 10-12

Hypoxia

Transvers process fractures R T11, L L1-3

R psoas muscle hematoma

Sacral/buttock abrasions

RLE parasthesias

Incidental findings of L perihilar mass, L occipital lobe mass with associated vasogenic edema, L adrenal gland mass

L pleural effusion

Hx of HTN, HLD

Hospital course:

12/23: Neurology consult, PT/OT to eval, DC foley, Wean O2, RT consult for protocol – will initiate DuoNeb breathing tx.

12/24: Oncology consult, start lovenox, increase gabapentin, restart home meds, clean abrasions to lower back/buttock and apply bandage.

12/25: Ambulatory O2 test shows hypoxia even sitting in bed, required oxygen with ambulation, otherwise had desaturation to 84%. CM consult for home oxygen requirements. Plan to have PT/OT eval and work with patient today.

12/26-28: CM consult for home oxygen requirements. Plan to have PT/OT work with patient daily. 12/29: Medically stable for discharge with continuous O2 arranged by Case Management.

Wife arrives to transport pt to home in Arkansas with instructions to follow up with oncologist and neurologist in home state.

As to the compensability of the claimant's injuries from his December 22, 2021, motor vehicle accident that alleges to include injuries to his low back, ribs, and lower extremities, there appears to be no dispute between the parties that objective medical evidence exists to prove their existence from the motor vehicle accident. CT scans and medical records shortly after the accident clearly demonstrate their existence. The claimant must also prove by a preponderance of the evidence that those injuries arose out of and in the course of his employment. It is undisputed that the claimant was in the course of his employment at the time of the accident. When it occurred, he was doing what he was paid by the respondents to do, that is drive a semi-truck. However, "arising out of" refers to the origin or cause of the accident. It is that origin or cause of the accident that the dispute in this matter appears. The respondent contends that the origin or cause of the accident was idiopathic in nature. The incidental findings of a mass in the claimant's brain while being treated for his motor vehicle injuries appear to be the basis for the respondent's position.

It is without question such a mass is present and the claimant passed away on April 25, 2022. However, whether the mass in the claimant's brain had anything to do with the motor vehicle accident is uncertain. Dr. Sudbeck at Wesley Medical Center did state in a medical report, "I do not think that he will make much progress in rehab as I believe that his motor vehicle accident was a result of his brain tumor. He has been having issues with balance, memory, and physical activities for the last few weeks, even before his incident." That all may well be true, but there is no direct evidence that the claimant had some episode due to his brain tumor that caused the motor vehicle accident; to determine so would be speculative and

conjective in nature. In fact, the claimant stated to medical providers at Ashland Health Center, the first to provide post-motor vehicle accident care to the claimant, “He reports that he doesn’t remember the accident well. He remembers driving and then his semi ‘went squirrely’ and he wrecked.... Denies LOC, but states that he was ‘dazed’ because it happened so fast.”

The claimant’s widow, who is an EMT in Arkansas, testified that she had not observed any unusual behavior from the claimant prior to his motor vehicle accident. Following is a portion of her direct examination testimony:

Q And would you be around, then, all day and all night during the period of time that he was back at home?

A Yes.

Q So you say it was a week or ten days before December 22 of 2021 when you had seen him?

A I am going to say at least a week.

Q During the period of time that you had visited with him closest to the December 22, 2021 accident, had you observed anything about his behavior that caused you to believe that he was having any medical problems?

A No, sir.

Q Now, you are an EMT, right?

A Yes, sir.

Q How long have you been an EMT?

A Sixteen years.

Q As part of your training as an EMT, are you trained to look for things about people’s behavior to help you determine whether they need to actually be sent to a medical provider?

A Yes, sir.

Q Relying upon that training and relying upon your knowledge of Mr. Carpenter acquired over the many years that you have been married to him, was there anything different about how he acted during the period of time that you saw him most recently before his December 22, 2021 accident?

A No, sir.

Q [BY MR. WALKER]: Did you see anything in his behavior that caused you to conclude that he appeared to be confused?

A No, sir.

Q Did he appear to have any problems with his balance?

A No.

The respondent called Alecia Gipson as a witness in this matter. Ms. Gipson is employed by the respondent as the Director of Safety. Ms. Gipson gave direct examination testimony that inspections of the semi-truck the claimant was driving at the time of the motor vehicle accident showed no issues or problems. This would include inspections done by the claimant himself, one of which was done the day immediately preceding the accident. Ms. Gipson also testified on direct examination about her thoughts on the video taken from the claimant's truck as follows:

Q [BY MR. WADE]: Did that video show any type of reaction by Mr. Carpenter based upon what you were able to see?

A It did not show any abrupt movement as far as steering or braking. It appeared as a slow veer to the left of the roadway without reaction until leaving the roadway.

Q Okay. So based upon the speed that you could see on the video, was there any abrupt stop or jerk or anything of that nature showing a significant drop in speed?

A No, sir, not until it left the roadway.

Q Was there any turning of the steering wheel to try to correct anything of that nature?

A No, sir.

I note that this testimony is contrary to the Kansas Motor Vehicle Crash Report done by Officer Hebbard of the Kansas Highway Patrol. That report clearly states, “V1 [claimant tractor-trailer] left the roadway for an unknown reason still traveling east-bound partly in the ditch. V1 ran over a culvert. D1 [the claimant] then overcorrected, going left of center before coming back into the driving lane. The vehicle tripped during the overcorrection causing it to overturn. V1 came to rest in the south ditch in a culvert on the right side of the vehicle.” The video presented is deficient in both length and visual and is of little value in determining origin or cause of the motor vehicle accident. I do not find there to be enough evidence present to make a determination as to origin or cause of the motor vehicle accident. As such, I find the motor vehicle accident to be an unexplained accident. In the case of an accident where the cause of the harm is unknown, the injury is the result of an unexplained accident, which is generally regarded as compensable. *Moore v. Darling Store Fixtures*, 22 Ark. App. 21, 732 S.W. 2nd 496 (1987).

In the present matter, I do not find the claimant’s brain mass, or some episode caused by this mass, can be proven to have caused the motor vehicle accident. However, even if the respondent could prove that as fact, the claimant’s injuries would still be compensable. An accident caused by an idiopathic event is not related to employment, and as such, is generally not compensable unless, as is the case here, conditions related to the employment contribute to the risk by placing the claimant in a position that increases risk. Driving a semi-tractor and trailer would most certainly increase the risk during an idiopathic event. The claimant is able to prove by a preponderance of the evidence that he sustained compensable injuries to his back, ribs and lower extremities in a motor vehicle accident on December 22, 2021.

The claimant has asked the Commission to determine whether the claimant is entitled to medical expenses. In review of the records submitted into evidence I find that all the medical treatment related to his compensable injuries is reasonably necessary treatment for his compensable injuries. This would include the treatment at both Ashland Health Center and Wesley Medical Center regarding the claimant's brain mass as that mass was found incidentally through diagnostic treatment of the claimant's compensable injuries.

The claimant has asked the Commission to determine whether he is entitled to temporary total disability benefits from December 23, 2021, until April 25, 2022. At the claimant's discharge from Wesley Medical Center, the claimant was placed on light duty with no strenuous activity and restricted from driving. The claimant died on April 25, 2022. I find no evidence that the claimant was ever removed from light duty restrictions prior to his death. Clearly, the claimant's injuries were significant, and he did not perform any type of work between the motor vehicle accident and his passing. I also find no evidence of light duty work being offered to the claimant. The claimant was within his healing period during this time and was unable to earn wages as a result of his compensable injuries. The claimant has proven by a preponderance of the evidence his entitlement to temporary total disability benefits from December 23, 2021, to April 25, 2022.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on April 4, 2022, and contained in a Pre-hearing Order filed May 4, 2022, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that he sustained compensable injuries to his back, ribs, and lower extremities on December 22, 2021.

3. The claimant has proven by a preponderance of the evidence that he is entitled to temporary total disability benefits from December 23, 2021, to April 25, 2022.

4. The claimant has proven by a preponderance of the evidence that he is entitled to payment of medical expenses regarding his compensable injuries.

5. The claimant has proven by a preponderance of the evidence that his attorney is entitled to an attorney's fee in this matter.

ORDER

The respondent shall pay for the medical treatment regarding the claimant's compensable injuries, including diagnostic treatment for those compensable injuries that found incidentally the claimant's brain mass.

The respondent shall pay the claimant temporary total disability benefits from December 23, 2021, through April 25, 2022.

Respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the benefits awarded herein, with one half of said attorney's fee to be paid by the respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits pursuant to Ark. Code Ann. §11-9-715.

All benefits herein awarded which have heretofore accrued are payable in a lump sum

without discount.

This award shall bear the maximum legal rate of interest until paid.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**