

underscored the policy holder's expectation that comprehensive coverage extended to emotional injuries.

Repetitive Use Injury Classification Held Unconstitutional

Stephenson v. Sugar Creek Packing, 250 Kan. 768 (1992).

Using a test that normally results in a finding upholding a governmental classification, the Kansas Supreme Court nonetheless held that there was no rational basis to support a classification of repetitive use injury claimants that was different from those with the same injury resulting from a single trauma. The case presented a challenge to a Kansas statute that classified repetitive use syndrome injuries to a schedule that probably provided lower benefits to workers' compensation claimants than those that would be received if the same injury occurred in a single trauma. The claimant suffered carpal tunnel syndrome in her hands and wrists as a result of several years' work in a meat packing plant. She challenged her injury classification on the ground that it denied her equal protection. The Kansas Supreme Court agreed.

First, the court identified the classification scheme. The classification found in the statute provided that repetitive use injuries resulting from repeated small injuries would be classified under a schedule that generally specified the recovery. A similar resulting injury from a single trauma would result in a claim for partial general disability and a higher resulting recovery.

In judging the validity of the classification, the court initially addressed the various tests the United States Supreme Court has used to apply the equal protection clause. While each of the tests compares the fit between the classification and the goals that the classification is meant to further, the degree of fit varies with the kind of problem. On the low end, the rational basis test applied to most forms of economic regulation requires only that the fit be reasonable. The heightened scrutiny test normally applied to sex discrimination claims requires that the classification substantially further the legislative purpose. At the high end, the strict scrutiny test applied to race discrimination and infringements of fundamental rights requires that the classification be necessary to serve a compelling state interest. While several of the parties argued that heightened scrutiny be applied, the court relying on prior decisions concluded that the rational basis test was appropriate.

While the use of the rational basis test is normally the death knell to an equal protection challenge, this case was different. The court determined that the only apparent state purpose for the classification was the reduction of insurance costs. The court then found that the goal was not legitimate, concluding that the state could not pursue the objective of lower costs by discriminating among similarly situated groups. It was neither fair nor reasonable to distinguish between individuals suffering identical medical conditions. As there was no basis for the distinction other than to save money, the court held that the statute violated the right of equal protection.

Copyright of Journal of Risk & Insurance is the property of Blackwell Publishing Limited and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.