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## Workers' Compensation

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## WORKERS' COMPENSATION

*N.Y. CONST. art. I, § 18:*

*Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection . . . [for] compensation for injuries . . . or for death of employees . . . without regard to fault as a cause thereof.*

### SUPREME COURT, APPELLATE DIVISION

#### THIRD DEPARTMENT

Smith v. Atlas Assembly<sup>1</sup>  
(decided June 29, 1995)

Atlas Assembly, an employer, appealed a Workers' Compensation Board decision requiring it to make payments to a decedent's mother and two work-related funds, due to the death of an employee.<sup>2</sup> The lower court based its decision on its interpretation of a workers' compensation law, and the Appellate Division, Third Department affirmed.<sup>3</sup> First, the appellate division held that Workers' Compensation Law section 16(4-b)<sup>4</sup> did not violate Article I, Section 18<sup>5</sup> of the New York State Constitution.<sup>6</sup> Second, the court held that the statute did not

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1. 628 N.Y.S.2d 872 (App. Div. 3d Dep't 1995).

2. *Id.* at 873.

3. *Id.* at 873-74.

4. WORK. COMP. LAW § 16(4-b). Section 16(4-b) provides in pertinent part: "If there be no surviving spouse or child under the age of eighteen years . . . then a sum of fifty thousand dollars shall be paid to the deceased's surviving parents or if there be no surviving parents to the deceased's estate." *Id.*

5. N.Y. CONST. art. I, § 18. This section provides in pertinent part: "Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection . . . [for] compensation for injuries . . . or for death of employees . . . without regard to fault as a cause thereof." *Id.*

6. *Atlas*, 628 N.Y.S.2d at 873.

7. U.S. CONST. amend. XIV, § 1. The Fourteenth Amendment provides in pertinent part: "[N]or shall any State deprive any person of life, liberty, or

violate the Equal Protection or Due Process Clauses of either the Federal<sup>7</sup> or New York State<sup>8</sup> Constitutions.<sup>9</sup>

The court held that Article I, Section 18 of the New York State Constitution gives the legislature plenary power to decide a system of compensation for employees injured or killed during the course of their employment.<sup>10</sup> Section 18 also gives the legislature power, free from constitutional constraints, to decide who is entitled to receive the benefits, including “*nondependent parents* or a decedent’s estate.”<sup>11</sup> In addition, the court held that Article I, Section 18 “precludes any attack on workers’ compensation statutes within the scope of that section based on the New York Constitution, including the Equal Protection and Due Process Clauses.”<sup>12</sup> Finally, under the United States Constitution, appellants had no standing to sue because they were not the injured party.<sup>13</sup>

Raymond Smith [hereinafter decedent] was killed in a work-related industrial accident.<sup>14</sup> In a Workers’ Compensation Board

property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” *Id.*

8. N.Y. CONST. art. I, § 6. Section 6 provides in pertinent part: “No person shall be deprived of life, liberty or property without due process of law.” *Id.*; N.Y. CONST. art. I, § 11. Section 11 provides in pertinent part: “No person shall be denied the equal protection of the laws of this state or any subdivision thereof.” *Id.*

9. *Atlas*, 628 N.Y.S.2d at 874.

10. *Id.* at 873.

11. *Id.* (emphasis added).

12. *Id.* (citing *Crosby v. State*, 57 N.Y.2d 305, 310, 442 N.E.2d 1191, 1193, 456 N.Y.S.2d 680, 682 (1982) (holding that “section 18 of article I itself lays to rest all State constitutional attacks on the workers’ compensation laws falling within its scope”); *Shanahan v. Monarch Engineering Co.*, 219 N.Y. 469, 476, 114 N.E. 795, 797 (1916) (holding that the “legislature [is authorized] to adopt an employees compensation system and to define who should be entitled to relief for damages without any state constitutional limitation ”)).

13. *Id.* at 874.

14. *Id.* at 873.

[WCB] decision, a Workers' Compensation Law Judge [WCLJ] ordered appellant's insurance company, Maryland Casualty Company, to pay \$50,000 to decedent's mother pursuant to Workers' Compensation Law section 16(4-b).<sup>15</sup> In addition, appellants, Atlas Assembly/Crawford Furniture Manufacturing Corporation, and the insurer were ordered to pay \$3,000 to the Uninsured Employers Fund, in accordance with Workers' Compensation Law section 26(a),<sup>16</sup> and \$2,000 to the Vocational Rehabilitation Fund, in accordance with Workers' Compensation Law section 15(9).<sup>17</sup> The WCB affirmed the WCLJ's award by upholding the constitutionality of Workers' Compensation Law section 16(4-b) and based its decision on *Matter of Estate of Allen v. Colgan*.<sup>18</sup>

Appellants' first contention was that Workers' Compensation Law section 16(4-b) was unconstitutional under both the New York and United States Constitutions because the law required payment to a party who is not a dependent of the decedent, even if no monetary loss had been shown by that party.<sup>19</sup> It was further asserted that section 16(4-b) was not meant to function as

15. *Id.* See WORK. COMP. LAW § 16(4-b), *supra* note 4.

16. WORK. COMP. LAW § 26-a. Section 26-a provides in pertinent part: [W]hen a claim for compensation is filed . . . in case of death by the employee's dependents . . . and the employer has failed to . . . make payment of compensation into the fund created under this section . . . . The employer shall pay the award into the fund, in accordance with the time limitations contained in section twenty-five . . . .

*Id.*

17. WORK. COMP. LAW § 15(9). Section 15(9) provides in pertinent part: "[T]he employer, or if insured, his insurance carrier, shall pay into the vocational rehabilitation fund for every case of injury causing death, in which there are no persons entitled to compensation, the sum of . . . two thousand dollars . . . ." *Id.*

18. *Atlas*, 628 N.Y.S.2d at 873. See *Matter of Estate of Allen v. Colgan*, 190 A.D.2d 939, 593 N.Y.S.2d 614 (3d Dep't 1993). In *Allen*, the court held that the \$50,000 payment made to a decedent's surviving parents was "intended to be for a no-dependency situation." *Id.* at 940, 593 N.Y.S.2d at 615. Therefore, there is "nothing improper or unfair in the requirement that the carrier also make payments into the No-Dependency Funds" of § 15(9) and § 26-a. *Id.*

19. *Atlas*, 628 N.Y.S.2d at 873.

an insurance policy.<sup>20</sup> In other words, appellants urged that the law was designed for “a specific remedial and compensatory purpose,” which was to pay employees and their dependents a monetary figure derived from statutory guidelines for actual or prospective pecuniary loss from the accident.<sup>21</sup> Appellants argued that the law was designed to avoid “financial recovery *beyond* the actual or prospective pecuniary loss” which resulted from the accident.<sup>22</sup>

The court disagreed with appellants’ contentions and affirmed the ruling of the WCB.<sup>23</sup> In reaching its decision, the court noted that Article I, Section 18 of the New York State Constitution gives the legislature plenary powers to determine a scale of compensation for a work-related injury or death.<sup>24</sup> Section 18 also gives the legislature the power to determine who is in the class that will benefit from the compensation without any state constitutional limitations.<sup>25</sup> Under this “broad constitutional mandate,” the legislature has the power to provide “death benefits to nondependent parents or a decedent’s estate.”<sup>26</sup>

The *Atlas* court based its holding on the New York Court of Appeals decision in *Shanahan v. Monarch Engineering Co.*<sup>27</sup> In *Shanahan*, the decedent was killed in a work-related accident due to his employer’s negligence.<sup>28</sup> A suit was commenced by the decedent’s next of kin and adult siblings, who did not fall into the category of persons which were to receive compensation under the Workers’ Compensation Law.<sup>29</sup> In upholding the lower court’s ruling, the New York Court of Appeals stated that “[t]he Constitution permits the Legislature to provide a remedy exclusive of all other rights or remedies for death of employees

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20. *Id.*

21. *Id.*

22. *Id.* (emphasis added).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. 219 N.Y. 469, 114 N.E. 795 (1916).

28. *Id.* at 471, 14 N.E. at 795.

29. *Id.* at 472, 14 N.E. at 795.

resulting from injuries.”<sup>30</sup> In reaching this conclusion, the *Shanahan* court stated, in language quoted by the *Atlas* court, that Article I, Section 18 “authorizes the legislature to adopt an employee’s compensation system and to define who should be entitled to relief for damages without any state constitutional limitation whatever.”<sup>31</sup>

Furthermore, the *Atlas* court, citing *Cooney v. Osgood Machinery, Inc.*,<sup>32</sup> held that the purpose of the statute is not solely to protect the employee and his or her dependents.<sup>33</sup> The purpose of the statute is also to protect the employer from additional lawsuits.<sup>34</sup> In *Cooney*, the New York Court of Appeals stated that the workers’ compensation law concept of finding the employer liable without fault amounted to a trade-off which, in return, immunized the employer from further actions.<sup>35</sup> Consequently, the *Atlas* court found that the statute was “consistent with the intent of the New York Constitution” and in step with the Workers’ Compensation Law, in permitting benefits to nondependent parents or to an employee’s estate.<sup>36</sup> Finally, the court added that, in light of the extensive power conveyed by Article I, Section 18,<sup>37</sup> the Legislature is not constrained by the civil law relief available to non-employees.<sup>38</sup>

Appellants’ second contention was that the statute violated the Equal Protection and Due Process Clauses of both the Federal and New York State Constitutions.<sup>39</sup> In holding that the statute

30. *Id.* at 481, 14 N.E. at 799.

31. *Id.* at 476, 14 N.E. at 797.

32. 81 N.Y.2d 66, 612 N.E.2d 277, 595 N.Y.S.2d 919 (1993).

33. *Atlas*, 628 N.Y.S.2d at 874.

34. *Id.*

35. *Cooney*, 81 N.Y.2d at 75, 612 N.E.2d at 282, 595 N.Y.S.2d at 924.

36. *Atlas*, 628 N.Y.S.2d at 874.

37. *See* *Barrencotto v. Cocker Saw Co.*, 266 N.Y. 139, 143, 194 N.E. 61, 63 (1934) (holding, that the legislature’s broad power to create an original and select system for employee compensation has no Federal Constitutional restrictions in a workers’ compensation case where plaintiff charged that working conditions caused him to inhale dust and other impurities resulting in his contracting a disease).

38. *Atlas*, 628 N.Y.S.2d at 874.

39. *Id.*

was not in violation of either constitution,<sup>40</sup> the court relied on *Crosby v. State*<sup>41</sup> and *Shanahan v. Monarch*.<sup>42</sup> The *Atlas* court stated that these previous holdings by the New York Court of Appeals have established that article I, section 18 of the New York State Constitution “precludes any attack on workers’ compensation statutes within the scope of that section based on the New York Constitution, including the Equal Protection and Due Process Clauses.”<sup>43</sup>

Finally, with respect to the Federal Constitution, the court held that the employer had no standing to bring a suit before the court.<sup>44</sup> The parties involved did not meet the criteria to challenge the distribution of benefits to a third party based on a violation of equal protection rights.<sup>45</sup>

40. *Id.*

41. 57 N.Y.2d 305, 310, 442 N.E.2d 1191, 1193, 456 N.Y.S.2d 680, 682 (1982).

42. 219 N.Y. 469, 476, 114 N.E. 795, 797 (1916).

43. *Atlas*, 628 N.Y.S.2d at 874.

44. *Id.* See *Eaton Associates v. Egan*, 142 A.D.2d 330, 535 N.Y.S.2d 998 (3d Dep’t 1988). In *Eaton*, a black businessman sitting on the board of directors of a corporation had his company rejected as a minority/women-owned business enterprise on the basis that there were white businessmen participating in the management of the company. *Id.* at 333, 535 N.Y.S.2d at 1000. Plaintiff challenged the validity of the governor’s order declaring a business as minority owned. *Id.* at 334, 535 N.Y.S.2d at 1000. The court held that plaintiff, claiming status as a minority business, did not suffer personal injury and therefore “lacks standing to complain of any injury which the Governor’s order may inflict in a constitutional sense upon others.” *Id.*

45. *Id.* See *People v. Kern*, 149 A.D.2d 187, 233, 545 N.Y.S.2d 4, 33 (1989), *aff’d*, 75 N.Y.2d 638, 554 N.E.2d 1235, 555 N.Y.S.2d 647, *cert. denied*, 498 U.S. 824 (1990). The court stated that the state had third-party standing in a criminal case based on three criteria: “1) the presence of some substantial relationship between the party asserting the claim and the right holder 2) the impossibility of the right holder asserting his own rights and 3) the need to avoid a dilution of the parties’ constitutional rights.” *Id.* In addition, the *Atlas* court disagreed with the employer’s contention that workers’ compensation law was not set up to make awards similar to life insurance payments in order to award recovery beyond the actual or future monetary loss as a result of the work-related accident. *Atlas*, 628 N.Y.S.2d at 874. The *Atlas* court held that this assertion was without merit in that death

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benefits are granted only in compliance with rules under the Workers' Compensation Law. *Id.*



