

NEWS FLASH

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His Honour Deputy President Judge Calligeros handed down his decision today in *Preedy v RTWSA* (414/2016) [2019] SAET 228.

Mr Preedy had suffered a compensable left shoulder injury in the course of his employment in August 2012. In April 2013, while having medical treatment for the compensable left shoulder injury he suffered a C5 vertebrae fracture to his neck. The injury occurred in circumstances where there was no negligent treatment by the physiotherapist but rather, because Mr Preedy had an underlying multiple myeloma cancer condition which made him susceptible to the fracture. The C5 neck injury was compensable.

As discussed in our June 2018 News&Views the Full Court of the Supreme Court remitted the *Preedy* case to a single member of the SAET to make findings of fact on two questions:

1. Whether Mr Preedy's whole person impairments from left shoulder and neck injuries arose from the same trauma under section 58(6) of the Act?
2. Whether Mr Preedy's whole person impairment from left shoulder and neck injuries arose from the same injury or cause under section 22(8)(c) of the Act?

His Honour Judge Calligeros made the following findings:

1. Mr Preedy's injuries did not arise from the same trauma.
2. Mr Preedy's injuries did not arise from the same injury.
3. **Mr Preedy's injuries did arise from the same cause.**

Accordingly, Mr Preedy's impairments arising from his left shoulder and neck injuries ought to be combined to 35%, making him a seriously injured worker under the RTW Act.

This is a significant decision because it will potentially increase the number of workers who will meet the 30% threshold and may significantly increase the monetary payments for economic loss lump sum payments under section 56 of the Act.

We will keep you informed and as soon as the Judgment is published online we will make it available to you.

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principal