

APPEAL NO. 251337
FILED SEPTEMBER 17, 2025

This appeal arises pursuant to the Texas Workers' Compensation Act, Tex. Lab. Code Ann. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 24, 2025, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) (employer), was the appellant's (claimant) employer for purposes of the Texas Workers' Compensation Act; (2) the respondent (carrier) is not relieved of liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001; (3) the carrier is liable for the payment of accrued benefits pursuant to 28 Tex. Admin. Code § 124.3 (Rule 124.3) resulting from its failure to dispute or initiate payment of benefits within fifteen days of the date it received written notice of the injury; (4) the claimant did not sustain a compensable injury on (date of injury); and (5) because the claimant did not sustain a compensable injury, he did not have disability from (date of injury) through May 26, 2025.

The claimant appealed, disputing the ALJ's determinations on compensability and disability. The carrier responded, urging affirmance. The ALJ's determinations that (1) (employer), was the claimant's employer for purposes of the Texas Workers' Compensation Act; (2) the carrier is not relieved of liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001; and (3) the carrier is liable for the payment of accrued benefits pursuant to Rule 124.3 resulting from its failure to dispute or initiate payment of benefits within fifteen days of the date it received written notice of the injury were not appealed and have become final pursuant to Section 410.169.

DECISION

Reversed by striking in part and reversed and rendered in part.

COMPENSABILITY

It is undisputed that on December 10, 2024, the claimant accepted a contingent offer of employment with the employer and that the claimant would be working in (city), Texas. The claimant testified he was told by his supervisor to travel from his home in (city), Texas, to (city), Texas, for a mandatory one-day orientation where he would complete employee paperwork and receive mandatory training. The claimant also testified he was told he would be reimbursed for travel expenses when he arrived at the orientation, and that he would be paid hourly wages for the time it took to travel to the orientation. It is undisputed that the claimant was injured in a motor vehicle accident (MVA) while driving from (city) to (city), and that due to the accident he was unable to

arrive at and attend the orientation in (city). At issue on appeal is whether the claimant was in the course and scope of employment at the time of the MVA on the date of injury.

The carrier contended at the CCH that the claimant was not in the course and scope of employment because he was traveling from home to work. The claimant contended that he was on a special mission because his supervisor directed him to drive to (city) for a mandatory orientation and not to (city), which was to be his normal work location.

The ALJ stated in the discussion portion of her decision that the evidence was credible the claimant sustained damage or harm to the physical structure of his body on the date of injury. However, the ALJ further stated she found the claimant's argument that he was on a special mission to be unpersuasive. The ALJ noted that in Appeals Panel Decision (APD) 020211, decided March 13, 2002, the Appeals Panel held an employer may direct an employee to start work at an alternate location without creating a special mission in accordance with *Evans v. Illinois Employers Ins. of Wausau*, 790 S.W.2d 302 (Tex. 1990). The ALJ pointed out "the evidence established that the claimant had never performed any actual service for the [employer] and was on his way to his first day of work, assuming a risk shared by society as a whole."

Section 401.011(12) provides:

(12) "Course and scope of employment" means an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that it is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes an activity conducted on the premises of the employer or at other locations. The term does not include:

(A) transportation to and from the place of employment unless:

(i) the transportation is furnished as a part of the contract of employment or is paid for by the employer;

(ii) the means of the transportation are under the control of the employer;
or

(iii) the employee is directed in the employee's employment to proceed from one place to another place[.]

The general rule is that an injury occurring in the use of public streets or highways in going to and returning from the place of employment is not compensable.

American General Insurance Co. v. Coleman, 303 S.W.2d 370 (Tex. 1957). The rule is known as the “coming and going” rule. The rationale of the rule is that “in most instances such an injury is suffered as a consequence of risks and hazards to which all members of the traveling public are subject rather than risks and hazards having to do with and originating in the work or business of the employer.” *Texas General Indemnity Co. v. Bottom*, 365 S.W.2d 350, 353 (Tex. 1963).

The exception to the coming and going rule in Section 401.011(12)(A)(iii) is referred to as the “special mission” exception where the employee is directed as part of the employment to proceed from one place to another. A special mission is a specific errand that an employee performs for the employer, either as part of the employee’s duties or at the employer’s request. *Upton v. Gensco, Inc.*, 962 S.W.2d 620, 621 (Tex. App.—Fort Worth 1997, pet. denied). A special mission involves work or work-related activity apart from the employee’s regular job duties or at the specific order or request of the employer. *Chevron, U.S.A., Inc. v. Lee*, 847 S.W.2d 354, 356 (Tex. App.—El Paso 1993, no writ).

A leading case in this area is *Evans*, 790 S.W.2d 302, which was referenced by the ALJ in the case on appeal. In *Evans*, the employee was instructed by his supervisor to attend a safety meeting at a different location and different time than his normal duty location and starting time. The employee’s pay was to begin when he arrived at the safety meeting. On the way to the safety meeting the employee was in an MVA and was killed. The court held that “since neither [Evans and another employee] had begun work their injuries fall squarely within the ‘coming and going’ rule.” The court further noted that although the petitioners asserted that the earlier starting time tended to prove that this was a special mission, a time change alone has been held insufficient to transform a trip into a special mission.

However, as pointed out by the court in *American Casualty Co. of Reading, Pennsylvania v. Bushman*, 480 S.W.3d 667 (Tex. App.—San Antonio 2015, no pet.) the only change to the employee’s daily routine in *Evans* was a slight alteration in the time and location of the regular safety meeting. In the case on appeal the claimant was traveling at the direction of the employer to a one-time orientation and training in a different city from what was to be his usual job site. The claimant’s travel to (city) was not merely a trip from home to his job site to begin a regular workday but was instead an atypical assignment in a different city. Under the facts of this case, we hold that the claimant was on a special mission at the time of the MVA. Accordingly, we reverse the ALJ’s determination that the claimant did not sustain a compensable injury on (date of injury), and we render a new decision that the claimant did sustain a compensable injury on (date of injury).

DISABILITY

In Finding of Fact No. 11 the ALJ found that from (date of injury), through the date of the CCH, the claimant was unable to obtain and retain employment at wages equivalent to the preinjury wage as a result of the claimed injury. However, the disability issue at the CCH was whether the claimant had disability from (date of injury), through May 26, 2025. That portion of Finding of Fact No. 11 that the claimant was unable to obtain and retain employment at wages equivalent to the preinjury wage from (date of injury), through May 26, 2025, is supported by the evidence. However, that portion of Finding of Fact No. 11 regarding May 27, 2025, through the date of the CCH exceeds the scope of the disability issue. Accordingly, we strike the portion of Finding of Fact No. 11 that from May 27, 2025, through the date of the CCH the claimant was unable to obtain and retain employment at wages equivalent to the preinjury wage as a result of the compensable injury as exceeding the scope of the issue.

The ALJ determined the claimant did not have disability because he did not sustain a compensable injury. Because we have reversed the ALJ's determination and rendered a new decision that the claimant did sustain a compensable injury on (date of injury), we also reverse the ALJ's determination that the claimant did not have disability from (date of injury), through May 26, 2025. We render a new decision that the claimant did have disability from (date of injury), through May 26, 2025.

SUMMARY

We reverse the ALJ's determination that the claimant did not sustain a compensable injury on (date of injury), and render a new decision that the claimant did sustain a compensable injury on (date of injury).

We strike that portion of Finding of Fact No. 11 that from May 27, 2025, through the date of the CCH the claimant was unable to obtain and retain employment at wages equivalent to the preinjury wage as a result of the claimed injury as exceeding the scope of the issue.

We reverse the ALJ's determination that the claimant did not have disability from (date of injury), through May 26, 2025, and we render a new decision that the claimant did have disability from (date of injury), through May 26, 2025.

The true corporate name of the insurance carrier is **TRI-STATE INSURANCE COMPANY OF MINNESOTA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS, TEXAS 75201.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner
Appeals Judge