

COURT OF APPEALS OF VIRGINIA

Present: Judges Elder, Beales and Retired Judge Hodges*

CHARLES DANIEL MERRITT

v. Record No. 0967-09-2

EBASCO CONSTRUCTORS, INC. AND
RELIANCE INSURANCE COMPANY/
VIRGINIA PROPERTY AND CASUALTY
GUARANTY ASSOCIATION

MEMORANDUM OPINION**

PER CURIAM

NOVEMBER 10, 2009

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Charles Daniel Merritt, *pro se*, on briefs). Appellant submitting on briefs.

(Kerri Borchardt Taylor; Goodman, Allen & Filetti, P.L.L.C., on brief), for appellees. Appellees submitting on brief.

Charles Daniel Merritt (claimant) appeals a decision of the Workers' Compensation Commission denying his request for an increase in permanent partial disability benefits. He contends the commission erred by misapplying the statutes in effect at the time of his injury. We have reviewed the record and the commission's opinion and find that this appeal is without merit.

Pursuant to the version of Code § 65.2-518 in effect at the time of claimant's injury, the total compensation payable to an employee could not exceed "the result obtained by multiplying the average weekly wage . . . as defined in § 65.2-500 . . . by 500, except in cases of total permanent incapacity as defined in § 65.2-503 and in cases of permanent disability under

* Retired Judge Hodges took part in the consideration of this case by designation pursuant to Code § 17.1-400(D).

** Pursuant to Code § 17.1-413, this opinion is not designated for publication.

§ 65.2-504(A)(4).” In this case, the commission properly determined claimant had already received compensation equivalent to or greater than the statutory maximum.

Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Merritt v. Ebasco Constructors, Inc., VWC File No. 168-29-93 (Apr. 7, 2009).

Affirmed.