

LISA K. HUPPER et al.

v.

BREDA, LLC

Argued June 12, 2013
Decided August 1, 2013

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD,
GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Lisa K. Hupper and her husband, David A. Hupper, appeal from a summary judgment of the Superior Court (Knox County, *Hjelm, J.*) entered in favor of Breda, LLC, d/b/a Camden Harbour Inn (the Inn), on the Hupper's claims for negligence and loss of consortium. The Hupper's argue that the Superior Court erred in concluding that the Maine Workers' Compensation Act of 1992, 39-A M.R.S. §§ 101-409 (2008),¹ provides the exclusive remedy for Lisa's injuries and grants immunity to the Inn from this civil suit.

Review of the record in this appeal demonstrates that the Superior Court did not err in concluding that there are no disputes as to material fact that Lisa, while an employee of the Inn, applied for and was paid workers' compensation benefits from the Inn's workers' compensation insurer for twenty-one months, and that her subsequent negligence action, and her husband's loss of consortium claim, seeking damages from the Inn are barred by the "immunity" or "exclusivity" provisions of the Workers' Compensation Act. *See* 39-A M.R.S. §§ 104, 408 (2012); *see also*

¹ The Act has since been amended, *see* 39-A M.R.S. §§ 101-409 (2012), but the portions relevant to this decision remain unchanged.

McKellar v. Clark Equip. Co., 472 A.2d 411, 414-15 (Me. 1984). As we have held, “[t]he immunity and exclusivity provisions of the Workers’ Compensation Act generally provide that employers are exempt from civil actions for ‘personal injuries sustained by an employee arising out of and in the course of employment,’ and that employees who have secured compensation under the Act are deemed to have waived any common law action against the employer.” *Hawkes v. Commercial Union Ins. Co.*, 2001 ME 8, ¶ 7, 764 A.2d 258 (citations omitted).

The entry is:

Judgment affirmed.

On the briefs:

Jeffrey L. Cohen, Esq., and Carol J. Garvan, Esq., McTeague, Higbee, Topsham, for appellants Lisa K. Hupper and David A. Hupper

Paul W. Chaiken, Esq., and Colin E. Howard, Esq., Rudman Winchell, Bangor, for appellee Breda, LLC

At oral argument:

Jeffrey L. Cohen, Esq. for appellants Lisa K. Hupper, et al.

Colin E. Howard, Esq. for appellee Breda, LLC