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SCOTUS Opinion: Lost Wages Awarded Under Railroad Retirement Tax Act Are Compensation Subject To IRS Taxation

4 Mar 2019

Michael Loos was injured while working for BNSF Railway Company. He sued his employer, and after trial was awarded $85,000 in pain and suffering, $11,212.78 in medical expenses, and $30,000 in lost wages as a result of him not being able to work from the injury. BNSF then argued that the lost wages award was "compensation . . . for services rendered as an employee," and thus was taxable income, of which BNSF needed to withhold $3,765 to pay the IRS. The district court and the Eighth Circuit disagreed with BNSF's interpretation, holding that since no services were rendered, lost wages were not taxable. Acknowledging a circuit split on the issue, the Court ruled, 7-2, in an opinion by Justice Ginsburg, that the lost wages award was compensation subject to taxation under the Act. The majority relied on two prior opinions in which backpay and severance pay were both held to be taxable compensation, reasoning that Congress and the IRS both interpreted "wages" broadly enough to cover lost wages as a result of inability to work. Justice Gorsuch, joined by Justice Thomas, dissented, arguing that the majority's approach runs contrary to the plain language of the statute, and also permitted BNSF to "sweeten their settlement offers while offering less money" to future plaintiffs by agreeing to structure settlement payments so as to minimize any portion designated as lost wages, thus avoiding the withholding tax. A link to the opinion in *BNSF Railway Company v. Loos* is here.

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TAGGED: scotus, Railroad Retirement Tax Act, SCOTUS opinons, Lost Wages, taxable income, BNSF Railway Company v. Loos