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David Pittman, appellant, v. Western Engineering Company, Inc., and Evert Falkena, appellees.

813 N.W.2d 487

Filed May 25, 2012. No. S-11-584.

1. **Summary Judgment: Appeal and Error.** An appellate court will affirm a lower court's granting of summary judgment if the pleadings and admitted evidence show that there is no genuine issue as to any material facts or as to the ultimate inferences that may be drawn from those facts and that the moving party is entitled to judgment as a matter of law.
2. ____: ____. In reviewing a summary judgment, an appellate court views the evidence in the light most favorable to the party against whom the judgment was granted, and gives that party the benefit of all reasonable inferences deducible from the evidence.
3. **Statutes.** Statutory interpretation presents a question of law.
4. **Appeal and Error.** An appellate court resolves questions of law independently of the trial court.
5. **Statutes: Appeal and Error.** In examining the language of a statute, its language is to be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous.
6. ____: ____. The rules of statutory interpretation require an appellate court to give effect to the entire language of a statute, and to reconcile different provisions of the statute so that they are consistent, harmonious, and sensible.
7. **Statutes: Legislature: Intent: Appeal and Error.** In construing a statute, an appellate court's objective is to determine and give effect to the legislative intent of the enactment.
8. **Statutes: Legislature: Intent.** Components of a series or collection of statutes pertaining to a certain subject matter are in pari materia and should be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions are consistent, harmonious, and sensible.
9. **Statutes: Legislature: Presumptions: Judicial Construction.** In determining the meaning of a statute, the applicable rule is that when the Legislature enacts a law affecting an area which is already the subject of other statutes, it is presumed that it did so with full knowledge of the preexisting legislation and the decisions of the Supreme Court construing and applying that legislation.

Appeal from the District Court for Lincoln County: Donald E. Rowlands, Judge. Affirmed.

Robert O. Hippe, of Robert Pahlke Law Group, P.C., L.L.O., for appellant.

Dean J. Sitzmann and Krista M. Carlson, of Wolfe, Snowden, Hurd, Luers & Ahl, L.L.P., for appellees.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

MILLER-LERMAN, J.

NATURE OF CASE

David Pittman, the appellant, brought a negligence action against Western Engineering Company, Inc. (Western), and Evert Falkena (collectively, the appellees) in the district court for Lincoln County. The case stems from the death of David's wife, Robin Pittman, who died in a work-related accident while working for Western on a road construction crew. David's sole theory of liability is bystander negligent infliction of emotional distress. In considering the appellees' motion for summary judgment, the district court determined, inter alia, that David's action was barred by the exclusivity provisions of the Nebraska Workers' Compensation Act and dismissed David's complaint with prejudice. David appeals.

We conclude that David's negligence action is barred by the exclusivity provisions of the Nebraska Workers' Compensation Act. David accepted payment, thereby releasing Western, and his action against Western is barred by operation of Neb. Rev. Stat. § 48-148 (Reissue 2010); this employer immunity extends to Falkena, a fellow employee of Robin, under Neb. Rev. Stat. § 48-111 (Reissue 2010). We affirm the district court's order which granted summary judgment in favor of the appellees and dismissed the action.

STATEMENT OF FACTS

On September 8, 2009, Robin was working as an employee of Western doing road construction on a project resurfacing Interstate 80 near Chappell, Nebraska. One of Western's semi-trailer trucks was hauling material for work on the project, when the left dual wheels of the sixth axle on the trailer broke loose from the left back axle of the trailer. The dual wheels rolled down the center median of the Interstate, where they struck and killed Robin. Falkena worked for Western and is alleged to have negligently maintained the semi-trailer truck. The parties agree that at the time of her death, Robin was acting in the scope of her employment, and that Robin's

death arose out of, and in the course of, her employment with Western.

David was located less than a mile away when he was notified to go to the scene of the accident. David also worked for Western. David arrived at the scene shortly after the accident and saw that Robin was dead. In his complaint, David alleges that the fatal injuries to Robin caused immediate and extreme mental anguish and shock to David and caused emotional distress to David so severe that no reasonable person should be expected to endure it.

David accepted workers' compensation payments as Robin's surviving spouse and dependent. Western and its insurance carrier paid David, as Robin's dependent, weekly death benefits of $602.32. Western also paid $6,000 in burial expenses. After David had received death benefits for approximately 38 weeks, Western, Western's insurer, and David filed in the Workers' Compensation Court an "Application for an Order Approving Lump Sum Settlement and Release." The application stated that Western and its insurer would pay a lump sum of $400,000 to David and that David would no longer receive workers' compensation death benefits by reason of the death of Robin. The application further stated that David could decline the settlement and proceed to trial. The application stated that upon payment of the $400,000, the parties agreed Western and its insurer would be "fully discharged from all further liability under the Nebraska Workers' Compensation laws, as amended[,] on account of the fatal accident of 9/8/2009 to Robin . . . , and shall be entitled to a duly executed release."

In its June 28, 2010, order, the Nebraska Workers' Compensation Court approved the parties' application, finding that the application was in conformity with the Nebraska Workers' Compensation Act. The court stated that Western and its insurer were to pay David $400,000, as described in the application, and that Western and its insurer were ordered "discharged from all further liability on account of the accident and injuries of 9/8/2009."

David subsequently brought this negligence case against the appellees in district court. He alleged bystander negligent

infliction of emotional distress against Western, based upon his shock upon arrival at the scene of the accident, where he saw Robin's body. See *Catron v. Lewis*, 271 Neb. 416, 712 N.W.2d 245 (2006) (describing bystander negligent infliction of emotional distress). David sought damages for emotional injuries from Western; he also alleged that Falkena was negligent in relation to the accident and sought damages therefor. David did not allege that he suffered any physical injury. David asks for no damages for loss of financial support, services, comfort, or companionship due to the death of Robin. The sole basis for his claim is common-law negligence.

The appellees filed a motion for summary judgment, and a hearing was held on June 6, 2011. In its "Journal Entry and Order" filed June 13, from which this appeal is taken, the district court determined that the cause of action set forth in the complaint was barred by the exclusivity provisions in the Nebraska Workers' Compensation Act. Accordingly, the district court dismissed David's complaint with prejudice.

The district court also stated that the lump-sum settlement which David entered into with Western and its insurer constituted a full and final release of all claims or causes of action which David sustained by reason of the death of Robin. Therefore, the court additionally determined that the "Settlement and Release" barred David's claim. The court again determined to dismiss David's complaint with prejudice.

The district court also commented on whether David's claim was derivative of Robin's injuries and indicated that

> [i]f [the] Court is incorrect in its analysis of the exclusivity rule under the Nebraska Workers' Compensation Act, or the release and lump sum settlement filed by [David] in the Workers' Compensation Court, then there is still the issue of whether the fellow servant rule bars the cause of action alleged by [David and] there are genuine issues of material fact [regarding the source of duty owed David].

Given these comments, the court stated that if it was incorrect in its conclusion that David's action was barred by the exclusivity provisions of the Nebraska Workers' Compensation Act, speaking hypothetically, it would not be able to enter

summary judgment in favor of the appellees and against David. Nevertheless, the action was dismissed.

David appeals.

ASSIGNMENTS OF ERROR

David generally claims, restated and summarized, that the district court erred when it sustained the appellees' motion for summary judgment and dismissed the complaint with prejudice. David claims in particular that the district court erred when it concluded that the exclusivity provisions of the Nebraska Workers' Compensation Act bar David's negligence claim filed in district court and when it additionally determined that David released the appellees from his negligence claim of bystander negligent infliction of emotional distress when he accepted the lump-sum settlement representing the dependent's benefits from the death of Robin under the Nebraska Workers' Compensation Act. David also assigns error to the district court's further comments in which it considered whether bystander negligent infliction of emotional distress is derivative of the claim of the person seriously injured or killed and whether David's claim against Falkena is barred by the fellow-servant rule.

Because there is no merit to David's initial and controlling assignment of error and we conclude that the district court correctly concluded that David's claim was barred by the exclusivity provisions of the Nebraska Workers' Compensation Act, we do not address David's additional assignments of error regarding the district court's comments regarding the derivative or nonderivative nature of his claim and issues related to the fellow-servant rule. See *In re Trust Created by Hansen*, 281 Neb. 693, 798 N.W.2d 398 (2011) (stating that appellate court is not obligated to engage in analysis that is not necessary to adjudicate case and controversy before it, and thus need not address issue that is not material to disposition of appeal).

STANDARDS OF REVIEW

[1,2] An appellate court will affirm a lower court's granting of summary judgment if the pleadings and admitted evidence show that there is no genuine issue as to any material facts or as to the ultimate inferences that may be drawn from

those facts and that the moving party is entitled to judgment as a matter of law. *Doe v. Board of Regents, ante* p. 303, 809 N.W.2d 263 (2012). In reviewing a summary judgment, an appellate court views the evidence in the light most favorable to the party against whom the judgment was granted, and gives that party the benefit of all reasonable inferences deducible from the evidence. *Id.*

[3,4] Statutory interpretation presents a question of law. *Downey v. Western Comm. College Area*, 282 Neb. 970, 808 N.W.2d 839 (2012). An appellate court resolves questions of law independently of the trial court. *Id.*

ANALYSIS

Nebraska Workers' Compensation Act and Claims of the Parties.

The district court concluded in its order filed June 13, 2011, that the exclusivity provisions of the Nebraska Workers' Compensation Act barred David's claim and dismissed the case with prejudice. Although unnecessary to the disposition of the case, it further commented that if the case was not barred and its dismissal was in error, then there were questions of fact regarding the details of various matters which could preclude summary judgment. Because we conclude that the exclusivity provisions of the Nebraska Workers' Compensation Act bar David's claims, the district court correctly dismissed the action and we affirm.

The initial issue before the district court was whether David's claims were barred. David contends for a variety of reasons that his claims against the appellees in district court are not barred and that therefore the dismissal by the district court was error. He points out that with the exception of first responders such as firefighters, Neb. Rev. Stat. § 48-101.01 (Reissue 2010), purely psychological damages are not recoverable under the definition of "injury" in the Nebraska Workers' Compensation Act, Neb. Rev. Stat. § 48-151(4) (Reissue 2010). See *Zach v. Nebraska State Patrol*, 273 Neb. 1, 727 N.W.2d 206 (2007) (determining that work-related injury caused by mental stimulus was not compensable under Nebraska Workers' Compensation Act, because injury caused by mental stimulus

does not meet statutory requirement that compensable injury involve violence to physical structure of body). David asserts that his claim in district court is limited to emotional injuries, which are not covered by the Nebraska Workers' Compensation Act, and asserts that "[s]ince emotional distress is not covered, the . . . exclusivity provisions do not bar an employee's tort suit against his/her employer for bystander negligent infliction of emotional distress." Brief for appellant at 7. This argument suggests that David is suing Western as an employee. David further contends that the injuries he claims did not arise from the injuries suffered by Robin, but instead arose separately and resulted solely from his shock of encountering the scene of Robin's death. He asserts that his negligence claim for bystander negligent infliction of emotional distress is not derivative of Robin's injuries. He contends that he has a freestanding claim which he can bring in district court regardless of whether he received a workers' compensation recovery based on Robin's employment. He acknowledges that the payment in the workers' compensation case was made without regard to negligence and that he would have to establish, inter alia, a breach of a duty owed by the appellees to him to establish negligence, were his bystander case to proceed.

The appellees claim that because David accepted payments under the Nebraska Workers' Compensation Act, the district court correctly concluded that David's case was barred by operation of the statutory exclusivity provisions of the act. See §§ 48-111 and 48-148. They also note that David signed a release in connection with his acceptance of the lump-sum settlement and assert that subsequent lawsuits arising from Robin's accident are prohibited. The appellees contend that David's claims in district court are derivative of Robin's and barred by the exclusivity rule. The appellees sometimes emphasize that David is an "employee" of Western and contend that because he recovered money from his employer not based in negligence, he cannot also seek a second recovery from his employer in another forum based on negligence.

In their arguments, both parties sometimes refer to David's status as an "employee" of Western. Contrary to various arguments asserted by both David and the appellees, we make clear

at this point in our analysis that David's status as an employee of Western is not relevant to the disposition of the exclusivity issue before us.

We have previously determined that an individual can be an employee of an entity but nevertheless sue that entity in district court where the particular facts show that the suit in district court is not covered under or barred by the Nebraska Workers' Compensation Act. See *Skinner v. Ogallala Pub. Sch. Dist. No. 1*, 262 Neb. 387, 631 N.W.2d 510 (2001) (noting that event in question did not arise in course of employment). Here, however, Robin's death arose out of and in the course of her employment, and David accepted payment under the Nebraska Workers' Compensation Act as her dependent. As explained more fully below, it is David's status as "surviving spouse" and "dependent" who has accepted compensation and payment under the act that bars him from pursuing the instant case in the district court. His status as an "employee" of Western has no bearing on the outcome of this case.

Our analysis is guided by the Nebraska Workers' Compensation Act and jurisprudence thereunder. Neb. Rev. Stat. § 48-110 (Reissue 2010) provides:

> When employer and employee shall by agreement, express or implied, or otherwise as provided in section 48-112 accept the provisions of the Nebraska Workers' Compensation Act, compensation shall be made for personal injuries to or for the death of such employee by accident arising out of and in the course of his or her employment, without regard to the negligence of the employer, according to the schedule provided in such act, in all cases except when the injury or death is caused by willful negligence on the part of the employee. The burden of proof of such fact shall be upon the employer.

Neb. Rev. Stat. § 48-112 (Reissue 2010) provides that "all contracts of employment shall be presumed to have been made with reference and subject to the Nebraska Workers' Compensation Act. Every such employer and every employee is presumed to accept and come under such sections."

In the present case, the outcome is controlled by §§ 48-111 and 48-148. These statutes are referred to as the "exclusivity"

provisions of the Nebraska Workers' Compensation Act. See *Bennett v. Saint Elizabeth Health Sys.*, 273 Neb. 300, 729 N.W.2d 80 (2007).

Section 48-111 provides:

> Such agreement or the election provided for in section 48-112 shall be a surrender by the parties thereto of their rights to any other method, form, or amount of compensation or determination thereof than as provided in the Nebraska Workers' Compensation Act, and an acceptance of all the provisions of such act, and shall bind the employee himself or herself, and for compensation for his or her death shall bind his or her legal representatives, his or her surviving spouse and next of kin, as well as the employer, and the legal representatives of a deceased employer, and those conducting the business of the employer during bankruptcy or insolvency. For the purpose of this section, if the employer carries a policy of workers' compensation insurance, the term employer shall also include the insurer. The exemption from liability given an employer and insurer by this section shall also extend to all employees, officers, or directors of such employer or insurer, but such exemption given an employee, officer, or director of an employer or insurer shall not apply in any case when the injury or death is proximately caused by the willful and unprovoked physical aggression of such employee, officer, or director.

Section 48-148 provides:

> If any employee, or his or her dependents in case of death, of any employer subject to the Nebraska Workers' Compensation Act files any claim with, or accepts any payment from such employer, or from any insurance company carrying such risk, on account of personal injury, or makes any agreement, or submits any question to the Nebraska Workers' Compensation Court under such act, such action shall constitute a release to such employer of all claims or demands at law, if any, arising from such injury.

We have previously explained that workers' compensation laws reflect a compromise between employers and employees.

Bassinger v. Nebraska Heart Hosp., 282 Neb. 835, 806 N.W.2d 395 (2011). Under these statutes, employees give up the complete compensation that they might recover under tort law in exchange for no-fault benefits that they quickly receive for most economic losses from work-related injuries. *Id.* The employer receives immunity from common-law suit. See *id.*

Quoting a treatise on workers' compensation law, we have noted:

> "'The reason for the employer's immunity is the *quid pro quo* by which the employer gives up his normal defenses and assumes automatic liability, while the employee gives up his right to commonlaw verdicts. This reasoning can be extended to the tortfeasor co-employee; he, too, is involved in a compromise of rights. . . . [O]ne of the things he is entitled to expect in return for what he has given up is the freedom [from] the commonlaw suits based on industrial accidents in which he is at fault.' . . ."

Peterson v. Cisper, 231 Neb. 450, 455-56, 436 N.W.2d 533, 536 (1989). See 6 Arthur Larson & Lex K. Larson, Workers' Compensation Law § 111.03[2] (2011). It is within this statutory and jurisprudential framework that we examine the application of the exclusivity provisions of the Nebraska Workers' Compensation Act to the present case.

David's Claim Against Western Is Barred.

Upon accepting payment as a dependent, by operation of § 48-148 of the Nebraska Workers' Compensation Act, David released Robin's employer, Western, from further claims arising from Robin's injury. David signed a "Settlement and Release" to the same effect. David's action against Western in district court is barred by employer immunity found in § 48-148.

Section 48-148 quoted earlier in this opinion refers to "dependents" who accept payment from the employer. Dependent is defined in Neb. Rev. Stat. § 48-124 (Reissue 2010), which states, "The following persons shall be conclusively presumed to be dependent for support upon a deceased employee: . . . a husband upon a wife with whom he is living or upon whom

he is actually dependent at the time of her injury or death . . . .” Section 48-124 further provides, “When used as a noun, the word dependent shall mean any person entitled to death benefits.”

In this case, David is Robin’s only dependent under § 48-124. As a dependent, David received weekly death benefits for approximately 38 weeks from Western and its insurer. David also entered into a “Lump Sum Settlement and Release” with Western and its insurer. In the “Application for an Order Approving Lump Sum Settlement and Release,” David states that he understands that upon payment of the lump sum, “the employer and its insurer . . . are fully discharged from all further liability under the Nebraska Worker’s Compensation laws, as amended[,] on account of the fatal accident on 9/8/2009 to Robin.” The Nebraska Workers’ Compensation Court’s order of approval directed Western and its insurer to pay $400,000 to David. The order further stated that Western and its insurer were discharged from all further liability on account of the accident and injuries of September 8, 2009. Given the statute and his agreement, David is subject to the terms of the Nebraska Workers’ Compensation Act.

We have previously discussed the release afforded the employer in § 48-148 of the Nebraska Workers’ Compensation Act in *Edelman v. Ralph Printing & Lithographing, Inc.*, 189 Neb. 763, 205 N.W.2d 340 (1973). In *Edelman*, the plaintiff employee sustained personal injuries in the course of his employment and received compensation benefits. Considering a similar predecessor version of § 48-148, we noted that § 48-148 “is effective whether the Workmen’s Compensation Act is voluntary, semi-voluntary, or compulsory.” 189 Neb. at 765, 205 N.W.2d at 341. In considering the “release” language in § 48-148, we stated, “The payment of benefits and medical expenses by statute released [the employer] from the present claim [filed in district court].” 189 Neb. at 765, 205 N.W.2d at 341. As determined in *Edelman*, under § 48-148, the payment and acceptance of benefits form a release.

In the present case, by virtue of the provisions of § 48-148 and the jurisprudence thereunder, as well as the settlement and release, David “released” Western from the present claim.

David elected to accept benefits under the Nebraska Workers' Compensation Act. David signed a settlement and release which incorporated Nebraska's workers' compensation laws. Even viewing the evidence in a light most favorable to David, see *Doe v. Board of Regents, ante* p. 303, 809 N.W.2d 263 (2012), David has released Western.

Our conclusion that David has "released" Western and is precluded from bringing the instant case under § 48-148 is consistent with other authorities decided under similar statutes. For example, in *Phillips v. Unijax, Inc.*, 462 F. Supp. 942 (S.D. Ala. 1978), *reversed on other grounds* 625 F.2d 54 (5th Cir. 1980), a widow brought a wrongful death action against her deceased husband's employer as a result of her husband's work-related death. Following her husband's death, the widow applied for and accepted workers' compensation benefits. *Id.* The court recognized that there was a factual issue of whether the death of the employee arose out of and in the course of his employment and that thus, the widow arguably had a choice of remedies. *Id.* Whether the wrongful death claim was derivative was not discussed. However, the court determined that because the widow chose to accept and retain benefits under Alabama's workers' compensation act, she was bound by the election and the act's exclusivity provision precluded the widow's separate cause of action for wrongful death against the employer. *Id.*

The terms found in § 48-148 are important for our analysis. Section 48-148 applies to "any employee, or his or her dependents in case of death, of any employer subject to the Nebraska Workers' Compensation Act." In this case, § 48-148 applies to David because Robin was an employee who died in the course of her employment, David is Robin's "dependent," and Western is an "employer" under Neb. Rev. Stat. § 48-106 (Reissue 2010). Section 48-148 goes on to provide that if the dependent "accepts any payment from such employer" or "makes any agreement," then "such action shall constitute a release to such employer of all claims or demands at law, if any, arising from such injury." David, as a dependent, accepted "payment" from Western and its insurer. David's tort action for bystander negligent infliction of emotional distress is a "claim

or demand at law." David fits the preceding terms of a § 48-148 release. However, in an effort to avoid the employer immunity effects of § 48-148, David contends that his present case did not "arise" from Robin's injuries as "arise" is used in § 48-148. We disagree.

[5,6] We examine whether David's claim for bystander negligent infliction of emotional distress "aris[es] from such injury" as that phrase is used in § 48-148, i.e., whether David's claim arose from Robin's injury and is therefore barred by statute. In examining the language of a statute, its language is to be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous. *AT&T Communications v. Nebraska Public Serv. Comm., ante* p. 204, 811 N.W.2d 666 (2012). The rules of statutory interpretation require this court to give effect to the entire language of a statute, and to reconcile different provisions of the statute so that they are consistent, harmonious, and sensible. *Id.* We conclude that David's claim arises from Robin's injury and is barred by the plain language of § 48-148.

Other courts construing similar statutes have concluded that emotional distress claims brought by an injured employee's family member "arose" from the employee's injury and are therefore barred. In *McLaughlin v. Stackpole Fibers Co.*, 403 Mass. 360, 530 N.E.2d 157 (1988), a widow brought a claim for negligent infliction of emotional distress against her deceased husband's employer after her husband had died in the course of his employment. After her husband's death, the widow applied for and began to receive weekly compensation benefits under the provisions of Massachusetts' workers' compensation act. *Id.* The applicable Massachusetts statute, which is similar to § 48-148, provided:

> "If an employee files any claim for, or accepts payment of, compensation on account of personal injury under this chapter, or makes any agreement, or submits to a hearing before a member of the division under section eight, such action shall constitute a release to the insured [employer] or self-insurer of all claims or demands at law, if any, arising from the injury."

403 Mass. at 361-62 n.3, 530 N.E.2d at 158-59 n.3. Another Massachusetts statute provided, "'Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.'" *Id.* at 362 n.4, 530 N.E.2d at 159 n.4.

In *McLaughlin*, the Supreme Judicial Court of Massachusetts determined that it was clear that once the widow filed a claim and received compensation under the act, "she was barred from recovering in any actions against the employer for common law claims arising from her husband's injury." 403 Mass. at 362, 530 N.E.2d at 159. In determining that the lower court correctly dismissed the widow's claim under the statute, the court specifically stated that the widow's common-law negligence "allegations of emotional distress *arose* from [her husband's] injury and ultimate death, and are therefore barred." *Id.* (emphasis supplied).

In *Maney v. Louisiana Pacific Corp.*, 303 Mont. 398, 15 P.3d 962 (2000), the Montana Supreme Court considered the connection between the employee's injury and the close relative's claim for negligent infliction of emotional distress. In *Maney*, the mother of a deceased employee brought, inter alia, claims for negligent infliction of emotional distress against her son's employer. The applicable Montana statute containing an exclusive remedy provision stated:

> "*For all employments covered under the . . . Act . . .* the provisions of this chapter are exclusive. Except as provided in part 5 of this chapter for uninsured employers and except as otherwise provided in the . . . Act, an *employer is not subject to any liability whatever for the death of or personal injury to an employee* covered by the . . . Act or for any claims for contribution or indemnity asserted by a third person from whom damages are sought *on account of such injuries or death.* The . . . Act binds the employee himself, and in case of death binds his personal representative and all persons having any right or claim to compensation for his injury or death, as well as the employer and the servants and employees of

> such employer and those conducting his business during liquidation, bankruptcy, or insolvency."

303 Mont. at 402, 15 P.3d at 965 (emphasis supplied).

The Montana Supreme Court was asked to consider the scope of the employer immunity from claims "'on account of such injuries or death [of the employee],'" under the just-quoted statute. *Id*. The Montana Supreme Court stated that the inquiry to be made in analyzing whether a third-party claim for emotional distress was barred by the exclusivity provision of Montana's workers' compensation act was whether it was a claim for compensation "'as a result of'" or "'concerning'" the employee's death as those concepts are understood under the immunity statute. 303 Mont. at 406, 15 P.3d at 968. Thus, the court asked whether there was some "rational nexus" between the mother's claim and the injury to or death of the employee son. *Id*.

In determining that there was a rational nexus between the mother's claim and her son's death, the Montana Supreme Court observed that whether the mother's claim was independent or derivative of her son's injury was "not pertinent" to a determination of whether her action was barred by the statutory exclusive remedy provision. 303 Mont. at 405, 15 P.3d at 967. The Montana Supreme Court stated that the mother's claim for negligent infliction of emotional distress was

> logically related to the underlying injury to, and death of, [the employee]. In other words, had [the employee's] injury and death not occurred, [the mother's] emotional distress claims would not have *arisen*. Thus, *her claims arose as a result of—and directly concern—*[*the employee's*] *compensable injury and death*. . . . There is a clear nexus between the injury to, and death of, [the employee] and [the mother's] emotional distress claim.

303 Mont. at 406, 15 P.2d at 968 (emphasis supplied). Accordingly, the Montana Supreme Court found that the mother's claims were barred by the exclusive remedy provision of Montana's workers' compensation act, and therefore affirmed the district court's decision which granted summary judgment in favor of the employer. *Maney, supra*.

These cases are instructive as we consider § 48-148 and analyze the present case. Similar to the analysis in *Edelman v. Ralph Printing & Lithographing, Inc.*, 189 Neb. 763, 205 N.W.2d 340 (1973), after Robin's death, David accepted compensation benefits from Western and its insurer, thereby releasing Western. As in *McLaughlin v. Stackpole Fibers Co.*, 403 Mass. 360, 530 N.E.2d 157 (1982), and *Maney v. Louisiana Pacific Corp.*, 303 Mont. 398, 15 P.3d 962 (2000), David's claim for bystander negligent infliction of emotional distress logically arises from Robin's death because, as articulated by the Montana Supreme Court in *Maney*, had Robin's injury and death not occurred, David's emotional distress claims would not have arisen. There is a clear, rational nexus between Robin's death and David's claim, and thus David's claims "aris[e] from such injury" under § 48-148. Based on the foregoing, under § 48-148, David's claim against Western is barred because he accepted compensation as Robin's dependent, he settled and released Western, and his claim arises from Robin's injury and death. The district court correctly concluded David's claim for bystander negligent infliction of emotional distress against Western was barred by the employer immunity provisions of the Nebraska Workers' Compensation Act.

David's Claim Against Falkena Is Barred.

Having concluded that employer immunity bars David's action against Western, we next consider whether Falkena, the coemployee of Robin, is also immune from David's suit. We conclude that the district court correctly concluded that David's claim against Falkena was barred, and we reject David's assignment of error to the contrary.

In determining whether David's suit against Falkena is barred, we look primarily to the language of § 48-111. Section 48-111 provides:

> Such agreement or the election provided for in section 48-112 shall be a surrender by the parties thereto of their rights to any other method, form, or amount of compensation or determination thereof than as provided in the Nebraska Workers' Compensation Act, and an acceptance of all the provisions of such act, and shall

> bind the employee himself or herself, and for compensation for his or her death shall bind his or her legal representatives, his or her surviving spouse and next of kin, as well as the employer, and the legal representatives of a deceased employer, and those conducting the business of the employer during bankruptcy or insolvency. For the purpose of this section, if the employer carries a policy of workers' compensation insurance, the term employer shall also include the insurer. The exemption from liability given an employer and insurer by this section shall also extend to all employees, officers, or directors of such employer or insurer, but such exemption given an employee, officer, or director of an employer or insurer shall not apply in any case when the injury or death is proximately caused by the willful and unprovoked physical aggression of such employee, officer, or director.

[7,8] In construing a statute, our objective is to determine and give effect to the legislative intent of the enactment. *State v. Hernandez, ante* p. 423, 809 N.W.2d 279 (2012). Components of a series or collection of statutes pertaining to a certain subject matter are in pari materia and should be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions are consistent, harmonious, and sensible. *Id.*

We have previously considered § 48-111. See *Pettigrew v. Home Ins. Co.*, 191 Neb. 312, 214 N.W.2d 920 (1974). In *Pettigrew*, we noted that in 1965, the Nebraska Legislature amended § 48-111 to include the sentence, "'For the purpose of this section, if the employer carries a policy of workmen's compensation insurance, the term employer shall also include the insurer' . . . ." 191 Neb. at 315, 214 N.W.2d at 922-23. We stated that with this amendment, the Legislature intended to extend the immunity provided to the employer to the employer's workers' compensation insurer. We observed that the amendment "place[d] the insurer in the same situation as the employer." 191 Neb. at 315, 214 N.W.2d at 923.

In *Pettigrew*, an injured employee who had already received workers' compensation for injuries suffered in the course of

his employment brought an additional action in district court against his employer's workers' compensation insurance carrier to recover for the same injuries. Looking to the legislative history of § 48-111, we noted that the principal backer of the 1965 amendment testified before the legislative committee considering the bill, and stated that the bill was intended to eliminate the possibility of the injured employee's receiving an award in a case under the Nebraska Workers' Compensation Act and again from the insurance carrier in a separate action. Once the employee had elected to receive workers' compensation benefits, the insurance carrier, like the employer, was immune from liability to the employee for the same injuries. Therefore, based on the language of § 48-111 and its legislative history, this court determined in *Pettigrew* that the employee had no cause of action in district court against the insurer and affirmed the dismissal of the action.

[9] After *Pettigrew* was decided, § 48-111 was again amended, and the following sentence was added:

> The exemption from liability given an employer and insurer by this section shall also extend to all employees, officers, or directors of such employer or insurer, but such exemption given an employee, officer, or director of an employer or insurer shall not apply in any case when the injury or death is proximately caused by the willful and unprovoked physical aggression of such employee, officer, or director.

See 1975 Neb. Laws, L.B. 227. In determining the meaning of a statute, the applicable rule is that when the Legislature enacts a law affecting an area which is already the subject of other statutes, it is presumed that it did so with full knowledge of the preexisting legislation and the decisions of the Supreme Court construing and applying that legislation. *River City Life Ctr. v. Douglas Cty. Bd. of Equal.*, 265 Neb. 723, 658 N.W.2d 717 (2003). Just as in *Pettigrew, supra*, where this court construed the legislative intent of the 1965 amendment to extend the immunity provided to the employer to the insurer, we determine that after *Pettigrew* was decided, § 48-111 was amended to extend employer immunity to fellow employees in the absence of willful conduct by the employee.

The Introducer's Statement of Purpose for L.B. 227 states that where workers' compensation benefits had been sought, *Pettigrew* had "upheld [the] legislative intent" to place the insurer "in the same situation as the employer" and further states that the purpose of the current bill was to extend such immunity to fellow employees. Committee on Labor, 84th Leg., 1st Sess. (Feb. 4, 1975). The Committee Statement observes that "[i]t seems inconsistent . . . to permit an employee to sue people working for the employer when he could not sue the employer . . . ." Committee Statement, L.B. 227, Committee on Labor, 84th Leg., 1st Sess. (Feb. 5, 1975).

Section 48-111 provides that "[t]he exemption from liability given an employer . . . shall also extend to all employees . . . ." The extension of employer immunity to employees under § 48-111 means that where the employer is immune from suit, in the absence of willful conduct, the employee is similarly immune.

As Robin's dependent, David accepted compensation benefits from Robin's employer and, as explained above, the provisions of the Nebraska Workers' Compensation Act apply to David. Because David accepted these benefits, Robin's employer, Western, enjoys employer immunity from third-party tort actions under § 48-148 and David's suit against Western is barred. Under § 48-111, this employer immunity provided to Western extends to Robin's fellow employee, Falkena. Accordingly, David's action against Falkena is barred. The district court did not err when it determined that David's claim against Falkena was barred by the exclusivity provisions of the Nebraska Workers' Compensation Act.

CONCLUSION

The district court correctly determined that David's claims against the appellees were barred by the exclusivity provisions of the Nebraska Workers' Compensation Act, §§ 48-111 and 48-148. The district court sustained the appellees' motion for summary judgment and dismissed the complaint. The district court did not err in so ruling. Accordingly, we affirm.

AFFIRMED.