

## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 81-329 - April 30, 1984

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;  
Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of an additional dismemberment payment and \$36,000 in death benefit payments to a Pensioner by the Employer under the terms of the Employer's Benefit Plan. They hereby render their opinion on the matter.

### Background Facts

The Complainant, whose birthdate is October 1, 1918, was injured on April 26, 1979, while performing classified work for the Respondent. The injury resulted in the loss of both legs. The Respondent paid the Complainant a \$12,000 dismemberment benefit under the 1978 Employer's Benefit Plan. The Complainant has been receiving a disability pension from the 1974 Pension Plan, effective May 1, 1979. The Respondent is providing him with benefits coverage under the Employer's Benefit Plan.

The Complainant is demanding an additional dismemberment benefit. In addition, he wants the Respondent to pay him, while he is still living, the \$12,000 death payment payable, under the National Bituminous Coal Wage Agreement of 1978 ("Wage Agreement"), upon the death of a miner if death is caused by other than violent, external or accidental means, and the \$24,000 payable upon the death of a miner if the death is caused by violent, external and accidental means. The Respondent has refused to pay the additional benefits demanded.

### Dispute

Is the Respondent responsible for the payment to the Complainant of an additional dismemberment benefit and for the \$36,000 in death benefits?

### Positions of the Parties

Position of the Complainant: The Respondent is responsible for the payment of an additional dismemberment benefit and for the payment of \$36,000 in death benefits.

Position of the Respondent: The Complainant has been paid the maximum dismemberment benefit provided under the 1978 Employer's Benefit Plan. The Employer's Benefit Plan provides that the Complainant's named beneficiary will be paid \$2,500 after his death. There is no provision which requires it to provide payment of a higher life insurance benefit for a Pensioner.

#### Pertinent Provisions

Article I (1), (2), (5) and (6) of the 1981 Employer's Benefit Plan provide:

#### Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (coal company).
- (2) "Wage Agreement" means the National Bituminous Coal Agreement of 1981, as amended from time to time and any successor agreement...
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph or any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of the Plan.
- (6) "Beneficiary" shall mean any person who is eligible pursuant to the Plan to receive health benefits as set forth in Article III hereof.

Article II B. (1) (a) and (b) of the 1981 Employer's Benefit Plan provide:

#### Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

##### B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided by Pensioners as follows:

- (1) Any Pensioner who is not again employed in classified signatory employment subsequent to
  - (a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and

- (b) June 7, 1981, shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I (5) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits, subject to all other provisions in this Plan.

Article III B. (2) (a) of the 1981 Employer's Benefit Plan provides:

Article III - Benefits

B. Life and Accidental Death and Dismemberment Insurance

(2) Pensioners

Upon the death of a Pensioner, as described in Article II, Section B, life insurance shall be paid in a lump sum to the Pensioner's named beneficiary in the following amounts:

- (a) \$2,500 if such Pensioner had dependents at the time of death.

Article III B. (1) (c) of the 1978 Employer's Benefit Plan provides:

Article III - Benefits

B. Life and Accidental Death and Dismemberment Insurance

(1) Active Employees

Life and accidental death and dismemberment insurance will be provided for Employees, as described in Article II, Section A and C(3) in accordance with the following schedule:

- (c) If an Employee shall lose two or more members due to violent, external and accidental means, such Employee shall receive a \$12,000 dismemberment benefit. If an Employee shall lose one member due solely to violent, external and accidental means, such Employee shall receive a \$6,000 dismemberment benefit. A member for the purpose of the above is (i) a hand at or above wrist, (ii) a foot at or above the ankle or (iii) total loss of vision of one eye.

Discussion

The Complainant was injured April 26, 1979, and was paid the \$12,000 maximum dismemberment benefit by the Respondent for the loss of both legs, as provided by Article III B. (1) (c) of the 1978 Employer's Benefit Plan. The Complainant has claimed, however, that the loss of his first limb satisfied the requirement for payment of a \$6,000 dismemberment benefit with an additional \$12,000 due if the dismemberment extends to a second limb.

Article III B. (1) (c) of the 1978 Employer's Benefit Plan provides either a \$6,000 benefit for the loss of one member or a \$12,000 benefit for the loss of two or more members. These are alternative, not cumulative, benefits. Accordingly, the \$12,000 benefit paid to Complainant as the result of his loss of two members represents the maximum payment available under Article III B. (1)(c).

The second issue raised by the Complainant involves his claim to death benefits. Death benefits payments under the Plan are provided only upon the death of an Employee or Pensioner; the amount of such payment depends upon his status at the time of death. The Plan does not provide for the advance payment of death benefits.

#### Opinion of the Trustees

The Respondent has provided the Complainant with the maximum dismemberment coverage available under the Employer's Benefit Plan and is not responsible for any additional payments. In addition, the Respondent is not responsible for the payment of a death benefit payment, except upon the death of an eligible Pensioner.