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OPINION OF TRUSTEES

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In Re

Complainant: Employee's Widow  
Respondent: Employer  
ROD Case No: 84-032 - October 1, 1985

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 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 accidental death and dismemberment benefits under the terms of the Employer Benefit Plan.

Background Facts

The Complainant's husband last worked in a classified position for the Respondent on October 26, 1984. During the night of October 26, 1984, the Complainant's husband was killed in an automobile accident. A toxicology report supplied to the Funds states that the husband's blood alcohol content at the time of death was approximately three times the legal limit prescribed by Virginia law.

The Respondent was signatory to the 1981 National Bituminous Coal Wage Agreement ("Wage Agreement"). At the expiration of the 1981 Wage Agreement, the Respondent's Employees continued to work with no work stoppage. On November 7, 1984, the Respondent signed a Letter of Agreement signifying its intention to become signatory to the 1984 Wage Agreement. The Complainant has stated that this Letter of Agreement contained a clause which expressly provided that the terms and conditions of the 1984 Wage Agreement would be retroactive to October 1, 1984. The Respondent signed the standard 1984 Wage Agreement on December 19, 1984.

The Employer Benefit Plan, as established under the 1981 Wage Agreement, contains a double indemnity provision which provides a payment of \$50,000, or twice the normal benefit, in the event that death is "due solely to violent, external and accidental means, ...". This same provision, as established by the 1984 Wage Agreement, provides a benefit payment of \$60,000.

The Respondent states that the Complainant's husband passed away on October 26, 1984 while it was actively engaged in contract negotiations which subsequently led to the signing of the Letter of Agreement on November 7, 1984. Although the Letter of Agreement provided a retroactive effective date of October 1, 1984, the Respondent contends that "[s]uch retroactivity can be and was applied to wages and other benefits, but cannot possibly be applied to a life insurance policy

where the insured has died in the interim." The Respondent has provided the Complainant with an accidental death benefit of \$50,000, stating that any amounts due the beneficiary "must be established under the 1981 Contract provision."

The Respondent also contends that because the Complainant's husband was operating a motor vehicle while intoxicated, "his death was not an accident" within the meaning of Article XX of the 1981 and 1984 Wage Agreements. The Respondent states that when the insurance carrier paid the \$50,000 death benefit, it was not aware that the husband was intoxicated at the time of his death. To date, the Respondent has not attempted to recover any portion of the benefit paid to the Complainant.

The Complainant has asked that the Trustees render an opinion as to the Respondent's responsibility to provide her with an additional \$10,000 of accidental death benefits.

#### Dispute

Is the Respondent responsible for the provision of an accidental death benefit of \$60,000 pursuant to the terms of the 1984 Employer Benefit Plan?

#### Position of the Parties

Position of the Complainant: The Respondent is responsible for the provision of an accidental death benefit of \$60,000.

Position of the Respondent: The Respondent is not responsible for the provision of \$60,000 of accidental death benefits because: (1) its responsibility to provide such benefits is limited to \$50,000 as provided by the 1981 Wage Agreement; and (2) the husband's death was not "accidental" within the meaning of Article XX of the 1981 Wage Agreement.

#### Pertinent Provisions

Articles I (1), (2) and (4) of the 1981 [1984] Employer 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 Wage Agreement of 1981 [1984], as amended from time to time and any successor agreement.
- (4) "Employee" shall mean any person working in a classified job for the Employer, eligible to receive benefits hereunder.

Article II A. of the 1981 [1984] Employer Benefit Plan provides:

Article II - Eligibility

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

A. Active Employees

Benefits under Article III shall be provided to any Employee who:

- (1) is actively at work\* for the Employer on the effective date of the Wage Agreement; or...

Article III B. (1) (b) of the 1981 [1984] Employer 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, Sections A and C(3), in accordance with the following schedule:

- (b) Subject to (d) below, upon the death of an Employee due solely to violent, external and accidental means, as the result of an injury occurring while insured and on or after June 7, 1981 [October 1, 1984], life insurance in the amount of \$50,000 [\$60,000] will be paid to the Employee's named beneficiary.
- (d) Accidental death or dismemberment benefits are not payable if caused in whole or in part by disease, bodily or mental infirmity, ptomaine or bacterial infection, hernia, suicide intentional self-inflicted injury, insurrection, or acts of war or is[sic] caused by or results from a felony.

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\* Actively at work includes an Employee of the Employer who was actively at work on March 26, 1981 [September 30, 1984], and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

Discussion

The Complainant's husband last worked in a classified position for the Respondent on October 26, 1984, the date of his death. Inasmuch as the deceased satisfied the definition of an Employee under Article II A. of the 1984 Employer Benefit Plan, he was entitled to receive benefits pursuant to Article III of this Plan. The Respondent has denied its responsibility to provide accidental death benefits of \$60,000 to the Complainant, contending that, although the Letter of Agreement it signed on November 7, 1984 stipulated a retroactive effective date of October 1, 1984, such retroactivity "cannot possibly be applied to a life insurance policy where the insured has died in the interim."

Nevertheless, the Letter of Agreement signed by the Respondent on November 7, 1984, after the terms of the new Wage Agreement were known, specifies an effective date of October 1, 1984 and does not exclude life insurance coverage for persons who died in the interim. Accordingly, the Trustees conclude that the 1984 Wage Agreement, and the benefit Plans incorporated by reference therein, became effective in its entirety on October 1, 1984.

The Respondent has also denied its responsibility to provide an accidental death benefit of \$60,000 stating that because the deceased "was killed while attempting to operate a motor vehicle while under the extreme influence of alcohol, his death was not an (accident) within the meaning of Article XX." Article III. B. 1. (d) of the Employer Benefit Plan, which contains exclusions to an Employer's responsibility to provide accidental death benefits, does not expressly exclude recovery if death was the result of operating a motor vehicle while intoxicated. Although Article III. B. 1. (d) excludes benefits for deaths which result from committing or attempting to commit a felony, driving while intoxicated is not a felony under Virginia law. Therefore, the Trustees are of the opinion that the deceased's death was accidental and that the Respondent is responsible for the provision of an accidental death benefit of \$60,000 pursuant to the terms of the 1984 Employer Benefit Plan.

#### Opinion of the Trustees

The Respondent is responsible for providing the Complainant with an accidental death benefit of \$60,000.