

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E909055 & D615473

JIMMY BROUGHTON, EMPLOYEE	CLAIMANT
IDEAL CONSTRUCTION CO., INC., EMPLOYER	RESPONDENT NO. 1
BITUMINOUS FIRE & MARINE INS. CO., INSURANCE CARRIER	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2

OPINION FILED MARCH 12, 2004

Upon review before the FULL COMMISSION in Little Rock,
Pulaski County, Arkansas.

Claimant represented by HONORABLE GENE E. MCKISSIC, Attorney
at Law, Pine Bluff, Arkansas.

Respondents No. 1 represented by HONORABLE RANDY P. MURPHY,
Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by HONORABLE JUDY RUDD,
Attorney at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Denied and
dismissed.

OPINION AND ORDER

This case comes on for review by the Full Commission on
appeal by claimant's widow from an opinion filed herein by
an Administrative Law Judge on September 2, 2003 denying a
joint petition.

The Administrative Law Judge ruled:

4. Subsequent to a hearing on compensability, and
prior to a ruling on same, the parties reached a
tentative settlement of the claim, and prepared a
proposed Joint Petition encompassing terms of the

settlement. On August 26, 2002, the claimant died from causes unrelated to the claimed July 20, 1999 injury.

5. A hearing was not conducted before the Arkansas Workers' Compensation Commission on the proposed Joint Petition prior to the death of the claimant. Ark. Code Ann. § 11-9-805 and Commission Rule 19, mandates that a hearing be conducted before the Arkansas Workers' Compensation Commission before approval of a Joint Petition can be had and its terms enforceable.

6. Claimant's death of August 26, 2002 was unrelated to his claimed injury of July 20, 1999, over which the Arkansas Workers' Compensation Commission has jurisdiction. At the time of the claimant's August 26, 2002 death, compensability of the July 20, 1999 claim had not been established. Ark. Code Ann. § 11-9-102(6) defines death to mean only death resulting from a compensable injury.

7. Petitioner is the widow of claimant. At the time of claimant's August 26, 2002 death, compensability of the July 20, 1999 claim had not been establish (sic). Claimant's death was unrelated to July 20, 1999 claim. Petitioner does not have standing under the Arkansas Constitution (Ark. Const. Art. 5 § 32) or the Arkansas Workers' Compensation Act.

Pursuant to Ark. Code Ann. § 11-9-805(e), no appeal from a denial of a Joint Petition can lie. We are without jurisdiction to review this appeal from the denial of this proposed Joint Petition. Odom v. Tosco Corp., 12 Ark. App. 196, 672 S.W.2d 915 (1984). See also Quinn v. Webb Wheel, 52 Ark. App. 208, 915 S.W.2d 740 (1996).

Accordingly, we deny and dismiss this appeal.

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IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner