

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F011695

EDWARD D. SALLEE, (DECEASED), EMPLOYEE CLAIMANT  
BY DIANE SALLEE, HIS WIDOW

GRAVES & ASSOCIATES, INC., EMPLOYER RESPONDENT

ST. PAUL TRAVELERS, CARRIER RESPONDENT

**OPINION FILED SEPTEMBER 21, 2006**

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

Claimant represented by HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondent represented by HONORABLE GUY A. WADE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

**OPINION AND ORDER**

The claimant appeals from a decision of the Administrative Law Judge filed May 25, 2006.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Workers' Compensation Commission has jurisdiction of this claim in which the relationship of employer-employee-carrier existed among the parties on October 4, 2000 at which time the

claimant sustained a compensable injury at a compensation rate of \$321.00/\$240.00. Medical expenses, temporary total disability benefits and \$9,194.34 in permanent partial disability benefits (from September 28, 2004 to June 28, 2005 at a rate of \$240.75) were paid based on an impairment rating of 100% to the upper extremity.

2. The claimant died on June 27, 2005. The cause of death is unrelated to the compensable injury.

3. The impairment rating was mistakenly paid at the permanent partial disability rate rather than the temporary total disability rate according to Ark. Code Ann. §11-9-501 resulting in an underpayment of benefits which accrued prior to the claimant's death. The respondents are ordered to pay the difference to the claimant's widow.

4. This claim has been controverted and the claimant's counsel is entitled to the maximum attorney's fees to be paid in accordance with A.C.A. §11-9-715, §11-9-801, and WCC Rule 10. Pursuant to the Full Commission decisions of Coleman v. Holiday Inn, (November 21, 1990) (D708577), and Chamness v. Superior Industries, (March 5, 1992) (E019760), the claimant's portion of the controverted attorney's fee is to be withheld from, and paid out of, indemnity benefits, and remitted by the respondent, directly to the claimant's attorney.

As a reminder, Ark. Code Ann. §11-9-715 was amended by Act 1281 of 2001, limiting attorney's fees on medical benefits and services for injuries after July 1, 2001.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.