S-1925-000155

(1959)

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STAE OF CALIFORNIA

CASE NO. 57-LA 182-835

GRACE RILEY, by her Guardian ad Litem and Trustee, James C. Riley,

Applicant,

vs

JOHNS-MANVILLE, INCORPORATED, a corporation; SOUTHERN ASBESTOS & MAGNESIA CORPORATION, a corporation; ASBESTOS COMPANY OF CALIFORNIA; PLANT RUBBER & ASBESTOS WORKS (COMPANY); LOS ANGELES RUBBER COMPANY; MARINE ENGINEERING COMPANY, a corporation; FIBERGLASS ENGINEERING & SUPPLY COMPANY, a corporation; ROBERT O. LYNCH, an individual, doing business as Lynch Asbestos Company and Lynch Asbestos Company, a corporation; PLANT INSULATION COMPANY, a corporation; COAST INSULATION PRODUCTS, a corporation; ARMSTRONG CORK COMPANY, a corporation; J. T. THORPE, INC., a corporation; WARREN AND BAILEY; TOTMAN-MORGAN COMPANY; OWENS-CORNING FIBERGLASS COMPANY, PACIFIC COAST DIVISION; PLANT INSULATION AND THORPE COMPANY; WESTON ASBESTOS COMPANY; M. R. CARPENTER; PLANT RUBBER AND ASBESTOS WORKS; EARL O. STICE COMPANY; UNITED CORK COMPANY; CORK INSULATION COMPANY; MUNDT CORK COMPANY; METAL CLAD INSULATION COMPANY; OIL FIELD CONSTRUCTION; E. J. BARTELLS COMPANY; ISOTHERM COMPANY; JAMAR & OLNEH C COMPANY; ASBESTOS BRODUCTS COMPANY; UNITED REFRACTORY CONSTRUCTION COMPANY; PHILIP CAREY MANUFACTURING COMPANY; REESE INSULATION COMPANY; LOS ANGELES CORK COMPANY; MOUNTAIN STATE CONSTRUCTION COMPANY; FIBREBOARD PAPER PRODUCTS CORPORATION; PARRIFINE COMPANY, INCORPORATED; C. R. DUTTON, C. A. LEIGHTON, WESTON FIBRE GLASS SUPPLY, LTD.;

EMPLOYERS LIABILITY ASSURANCE CORPORATION, LTD. OF LONDON, ENGLAND, a corporation; THE TRAVELERS INSURANCE COMPANY, a corporation; ASSOCIATED INDEMNITY COMPANY, a corporation; FIREMAN'S FUND INDEMNITY COMPANY, a corporation; AETNA CASUALTY & SURETY COMPANY, a corporation; INDUSTRIAL INDEMNITY COMPANY, a corporation; EMPLOYERS MUTUAL LIABILITY INSURANCE COMPANY OF WISCONSIN, a corporation; GUARANTEE INSURANCE COMPANY, a corporation; ARGONAUT INSURANCE COMPANY,

ORDER APPOINTING TRUSTEE, FINDINGS AND AWARD, AND ORDER FOR CONTRIBUTION

LOS ANGELES OFFICE
INDUSTRIAL ACCIDENT COMMISSION
STATE OF CALIFORNIA
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ASST. SECRETARY

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a corporation; AMERICAN MOTORISTS INSURANCE COMPANY, a corporation; ZURICH INSURANCE COMPANY, a corporation; PACIFIC EMPLOYERS INSURANCE COMPANY, a corporation; STATE COMPENSATION INSURANCE FUND; THE UNITED PACIFIC INSURANCE COMPANY, a corporation; STANDARD ACCIDENT INSURANCE COMPANY; a corporation; GENERAL ACCIDENT, FIRE & LIFE INSURANCE CORPORATION, a corporation; NATIONAL AUTOMOBILE AND CASUALTY COMPANY, a corporation; LIBERTY MUTUAL INSURANCE COMPANY, a corporation,

Defendants.

Hays, McLaughlin and Evans, by John F. McLaughlin, applicant's attorneys
Spray, Gould and Bowers, by David B. Allen, attorneys for Guarantee Insurance Co.
Herlihy and Herlihy, by George Thompson, attorneys for Industrial Indemnity Co., Fireman's Fund Insurance Company, Argonaut Insurance Company, and Employers Liability Assurance Corp. of London, England
Clopton and Penny, by Robert M. Penny, attorneys for Pacific Employers Insurance Co.
Weingand, Tipton, Kendig and Stockwell, by Claude Weingand, attorneys for United Pacific Insurance Company, General Accident Insurance Corporation and Associated Indemnity Co.
Brobeck, Phelger and Harrison, by Rinaldi Sciaroni, Jr., attorneys for Plant Rubber & Asbestos Works, self-insured, and Fibreboard Paper Products Corporation, formerly known as The Parrifine Company, Inc., also formerly known as Pabco Products, Inc., self-insured
Joseph Bilchak, representing The Travelers Insurance Company
Ray Cusick, attorney for Standard Accident Insurance Company
F. E. Carignan, representing American Motorists Insurance Company
McCaskey and Licker, by Robert Licker, attorneys for National Automobile and Casualty Co.
George R. Haswell, by George C. Shelton, Jr., attorney for Liberty Mutual Insurance Co.
Petersen, Wills and Hiestand, by Ray Bennett, attorneys for Employers Mutual Liability Insurance Co. of Wisconsin,
Arthur Hershenson, attorney for State Compensation Insurance Fund

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James C. Riley having heretofore been appointed Guardian ad Litem; and

GOOD CAUSE APPEARING THEREFOR:

IT IS ORDERED that James C. Riley be and he is hereby appointed Trustee for Grace Riley, to serve without bond.

An Application for the statutory death benefit having been filed herein and the defendants under prior Findings and Award having filed their Request for the joinder of additional employers and insurance carriers, together with Petition for apportionment and Contribution, and the matters having been regularly heard and submitted for decision, GEORGE A. MARTINELLI, Referee, makes his Findings and Award for the statutory death benefit and Order for Contribution as follows:

FINDINGS OF FACT

1. James Whitcomb Riley, born October 23, 1899, while employed as an insulator by various employers in the State of California, commencing in the month of January, 1920 and continuing through May 19, 1957, sustained injury arising out of and occurring in the course of his employment as follows: In the performance of his occupational duties, the employee was exposed during each and every day of his employment to deleterious dusts which caused a pneumoconiosis with superimposed tuberculosis, rendering the employee totally disabled on May 19, 1957.

2. Findings and Award issued in the employee's favor on November 27, 1959 imposing liability for said disability upon the defendant employers and their insurance carriers as set forth more specifically in Findings and Award which issued November 27, 1959 and which is incorporated herein as part of this Findings and Award. Said Findings and Award are final.

3. Said injury caused temporary total disability commencing May 20, 1957 through January 23, 1961, entitling the employee to $40.00 per week during said time, based upon maximum earnings.

4. Said employee died January 24, 1961. Said death was proximately the result of the industrial injury herein.

5. Deceased left surviving him, totally dependent, Grace Riley, his widow, who is entitled to the statutory death benefit in the sum of $10,000.00, payable at the rate of $40.00 per week beginning January 25, 1961; together with the burial expense in the sum of $400.00.

6. It is to the best interests of the applicant herein that the death benefit be commuted and paid in a lump sum.

7. The total value of the claim herein is the sum of $25,720.07, comprised of the following items:

a) For temporary total disability indemnity, $ 7,680.00;

b) For medical treatment, $4,592.76;

c) The commuted value of the death benefit, $9,326.76;

d) Reimbursement for burial expense, $400.00;

e) Reimbursement for self-procured medical treatment, $233.00;

f) Lien claim of Veterans Administration for medical treatment, $3,487.55.

8. Industrial Indemnity Company, a corporation, one of the defendants held liable under the original Findings and Award is liable for the payment of the entire Award herein.

9. Indemnity for all periods of temporary disability has been paid and all medical treatment furnished by Industrial Indemnity Company, a corporation, except as hereinafter noted:

10. The following sum remains unpaid: $13,447.31 representing the statutory death benefit, reimbursement for self-procured medical treatment and reimbursement for medical services rendered by the Veterans Administration, as more specifically set forth in Finding #7.

11. Applicant's attorneys are entitled to a lien against unpaid compensation for the reasonable value of their services in the sum of $750.00.

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12. The Travelers Insurance Company, a corporation, is entitled to a lien against unpaid compensation in the sum of $200.00.

13. Veterans Administration is entitled to a lien in the sum of $3,487.55 payable by Industrial Indemnity Company, a corporation.

14. The industrial injury and death herein were the result of exposure to deleterious dusts over a continuous period of time and proximately caused by employments other than that for which Industrial Indemnity Company, a corporation, was the carrier. The liability of those known employers and insurance carriers based upon periods of exposure is as follows:

Plant Rubber and Asbestos Works (Company)	$ 6,061.81
Associated Indemnity Co.	81.85
United Pacific Insurance Co.	842.05
General Accident, Fire & Life Insurance Co.	51.26
National Automobile & Casualty Co.	84.47
American Motorists Insurance Co.	1,473.37
Guarantee Insurance Co.	651.77
Liberty Mutual Insurance Co.	441.09
Standard Accident Insurance Co.	219.31
State Compensation Insurance Fund	1,085.58
Argonaut Insurance Co.	733.59
The Travelers Insurance Co.	1,324.91
Employers Liability Assurance Corporation, Ltd. of London, England	1,481.54
Aetna Casualty & Surety Co.	1,530.59
Fireman's Fund Indemnity Co.	2,374.97
(Industrial Indemnity Co.	2,705.28)
Pacific Employers Insurance Co.	4,603.63
Total	$ 25,720.07

15. There are employers and insurance carriers whose liability for contribution has not been determined. Jurisdiction is reserved to further apportion said liability upon the request of any party in interest.

A W A R D

AWARD IS MADE in favor of Grace Riley against Industrial Indemnity Company, a corporation, payable to James C.

Riley, Trustee, the sum of $13,447.31, payable forthwith, together with interest as provided by law; less $750.00 payable to Hays, McLaughlin and Evans, as attorneys' fees; less $200.00 payable to The Travelers Insurance Company, a corporation, and less the sum of $3,487.55 payable directly to Veterans Administration.

ORDER FOR CONTRIBUTION

IT IS ORDERED that the employers or carriers listed below pay to Industrial Indemnity Company, a corporation, the following amounts forthwith:

Plant Rubber and Asbestos Works (Company)	$ 6,061.81;
Associated Indemnity Co.	81.85;
United Pacific Insurance Co.	842.05;
General Accident, Fire & Life Insurance Co.	51.26;
National Automobile & Casualty Co.	84.47;
American Motorists Insurance Co.	1,473.37;
Guarantee Insurance Co.	651.77;
Liberty Mutual Insurance Co.	441.09;
Standard Accident Insurance Co.	219.31;
State Compensation Insurance Fund	1,085.58;
Argonaut Insurance Co.	733.59;
The Travelers Insurance Co.	1,324.91;
Employers Liability Assurance Corporation, Ltd. of London, England	1,481.54;
Aetna Casualty & Surety Co.	1,530.59;
Fireman's Fund Indemnity Co.	2,374.97;
Pacific Employers Insurance Co.	4,603.63.

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DATED AT LOS ANGELES, CALIFORNIA
AUGUST 3, 1961
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GEORGE A. MARTINELLI
Referee
INDUSTRIAL ACCIDENT COMMISSION