

ISSUES

The sole issue to be resolved, all other issues being reserved, according to the stipulation of the parties is:

Whether Idaho Code § 72-413 precludes death benefits to Decedent's dependents, if any qualify.

CONTENTIONS OF THE PARTIES

Claimant seeks an order by the Commission deciding whether Decedent died too late for Claimant to be eligible for death benefits where the Accident occurred on August 11, 2005, Decedent died on November 6, 2009, and Idaho Code § 72-413 specifies a 4-year statute of limitations for death benefit eligibility.

Defendants contend Idaho Code § 72-413 is dispositive.

EVIDENCE CONSIDERED

The record in the instant case consists of the following:

1. Stipulated facts submitted by the parties; and
2. Joint Exhibits A, B, and C.

After considering the record, the Referee submits the following findings of fact, conclusion of law, and recommendation for review by the Commission.

STIPULATED FINDINGS OF FACT

(The following is a verbatim recitation of the stipulated facts submitted by the parties.)

1. Exhibits A, B and C, attached hereto, are offered as joint exhibits and may be admitted without objection by either party.

2. Dale Wold was employed by Snake River Contractors, Inc., dba High Ridge Siding, on August 11, 2005 when, on that date and in the course and scope of his employment,

he suffered a fall resulting in quadriplegia. *Exh. A & B.*

3. Dale Wold died on November 6, 2009. *Exh. C.*

DISCUSSION AND FURTHER FINDINGS OF FACT

1. The foregoing stipulated findings of fact are accepted and adopted by the Commission.

2. Exhibits A, B, and C establish the facts found above.

3. Exhibit C is a copy of Decedent's death certificate. It states:

- a. "CAUSE OF DEATH" . . . "Blunt Force Neck Trauma with Complications."
- b. "MANNER OF DEATH" . . . "ACCIDENT"
- c. "DATE OF INJURY" . . . "August 2005"
- d. "INJURY AT WORK" . . . "Yes"

7. Idaho Code § 72-413 states in relevant part:

If death results from the accident or occupational disease within four (4) years from the date of the accident, or manifestation of the occupational disease, the employer shall pay to or for the benefit of the following particular classes of dependents' weekly income benefits . . .

8. The statute contains no provision for discretion, exception, excuse or waiver on the relevant point. No other statute appears to modify the relevant requirement of Idaho Code § 72-413.

9. The time period between August 11, 2005 and November 6, 2009 is more than four years. Therefore, Claimant is statutorily precluded from eligibility for death benefits.

CONCLUSION OF LAW

By express Legislative mandate, Idaho Code § 72-413 precludes eligibility for death benefits where Decedent suffered a compensable accident on August 11, 2005 and died on November 6, 2009, a date more than four (4) years after the accident.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusion of Law as its own and issue an appropriate final order.

DATED this 30TH day of June, 2010.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

In the Matter of: DALE WOLD, Decedent,)
_____)
)
SHEALENE WOLD, a minor, and)
ELAINE WOLD, guardian,)
)
Claimant,)
v.)
)
SNAKE RIVER CONTRACTORS, INC.,)
)
Employer,)
and)
)
LIBERTY NORTHWEST)
INSURANCE CORPORATION,)
)
)
Surety,)
Defendants.)
_____)

IC 2005-519684

ORDER

FILED JULY 7 2010

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee’s proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant claim is dismissed. By express Legislative mandate, Idaho Code § 72-413 precludes eligibility for death benefits where Claimant suffered a compensable accident on August 11, 2005 and died on November 6, 2009, a date more than four (4) years after the accident.

2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 7TH day of JULY, 2011.

INDUSTRIAL COMMISSION

/S/ _____
R. D. Maynard, Chairman

/S/ _____
Thomas E. Limbaugh, Commissioner

/S/ _____
Thomas P. Baskin, Commissioner

ATTEST:

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 7TH day of JULY, 2010, a true and correct copy of **FINDINGS, CONCLUSIONS, AND ORDER** were served by regular United States Mail upon each of the following:

Joseph T. Horras
P.O. Box 140857
Boise, ID 83714

E. Scott Harmon
P.O. Box 6358
Boise, ID 83707

db

/S/ _____