

GARNET GUEDEL)	
(Widow of FRANK GUEDEL))	
)	
Claimant-Respondent)	
)	
v.)	DATE ISSUED:
)	
JONES & LAUGHLIN STEEL)	
COMPANY)	
)	
and)	
)	
THE HARTFORD INSURANCE)	
COMPANY)	
)	
Employer/Carrier-)	
Petitioners)	DECISION and ORDER

Appeal of the Decision and Order - Awarding Benefits and the Order Granting Motion for Reconsideration and Amending Award of Daniel L. Leland, Administrative Law Judge, United States Department of Labor.

Cheryl Catherine Cowen (United Mine Workers of America), Belle Vernon, Pennsylvania, for claimant.

Mark Gordon (Pietragallo, Bosick & Gordon), Pittsburgh, Pennsylvania, for employer/carrier.

Before: HALL, Chief Administrative Appeals Judge, SMITH and BROWN, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order - Awarding Benefits and the Order Granting Motion for Reconsideration and Amending Award (91-LHC-1250) of Administrative Law Judge Daniel L. Leland rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the findings of fact and conclusions of law of the administrative law judge if they are rational, supported by substantial evidence, and in accordance with law. *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

While working for employer on June 4, 1969, decedent suffered a work-related injury which

resulted in a limited use of his right leg due to muscle atrophy and gangrene. On July 6, 1989, decedent died from congestive cardiac failure due to coronary atherosclerosis. CX 1. Claimant, decedent's widow, thereafter filed a claim for death benefits under the Act.

In his Decision and Order, the administrative law judge credited the opinion of Dr. Bhatt, the only medical opinion of record, in finding that decedent's right leg injury was a substantially contributing cause of his death. Accordingly, the administrative law judge awarded claimant death benefits. In a subsequent order, the administrative law judge amended his decision to reflect claimant's entitlement to weekly death benefits based upon the national average weekly wage at the time of decedent's death, as well as annual adjustments pursuant to Section 10(f) of the Act, 33 U.S.C. §910(f).

On appeal, employer challenges the administrative law judge's award of death benefits, and claimant responds, urging affirmance.

Section 9 of the Act provides for death benefits to certain survivors "if the injury causes death." 33 U.S.C. §909 (1988). In addressing the scope of Section 9 where the immediate cause of death is not work-related, the Board has applied the maxim that "to hasten death is to cause it." *See Fineman v. Newport News Shipbuilding and Dry Dock Co.*, 27 BRBS 104 (1993); *Woodside v. Bethlehem Steel Corp.*, 14 BRBS 601 (1982)(Ramsey, C.J., dissenting). In the instant case, the administrative law judge credited the opinion of Dr. Bhatt, who acknowledged that decedent's leg injury was a substantially contributing cause of his death, in awarding death benefits to claimant. *See EX 1* at 10, 12. We affirm the administrative law judge's decision in this regard, as it is supported by substantial evidence and is in accordance with law, and his consequent award of death benefits pursuant to Section 9.¹ *See Fineman*, 27 BRBS at 104.

¹We note that the administrative law judge found, and employer concedes, that no rebuttal evidence was introduced suggesting that the decedent's leg injury was not a substantial contributing cause of decedent's death.

Accordingly, the administrative law judge's award of death benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge