



SIX FLAGS, INC. et al. v. WCAB,  
MAC BUNYANUNDA, as Administrator  
Provided by Maurice E. Harrison of the Fresno office

The Second Appellate District has held that Labor Code Section 4702(a)(6)(B), which provides that when a worker without dependents sustains compensable injury resulting in death the employer must pay \$250,000 to the deceased worker's estate, is unconstitutional since an estate is not a constitutionally recognized beneficiary for receipt of workers compensation benefits.

Full description:

Six Flags Operator Hostess Bantita Rackchamroon died after being struck by an amusement ride in the course and scope of her employment. She had no dependents. The workers compensation judge awarded \$250,000 to her estate, pursuant to Labor Code Section 4702(a)(6)(B). Pursuant to Labor Code Section 4706.5, the judge also awarded \$125,000 to the Department of Industrial Relations, Death Without Dependents Unit.

Pacific, the workers compensation carrier, filed a petition for reconsideration on the grounds that both statutes were unconstitutional. The workers' compensation judge recommended the petition be denied since workers compensation judges, as administrative law judges, do not have the authority to rule on the constitutionality of statutes which is prohibited by Article III, section 3.5 of the California Constitution. The Board denied the petition and Pacific filed a petition for writ of review.

The California Court of Appeal, Second District referred to the former version of California Constitution, article XIV, section 4, which established the workers compensation system, identifying two classes of beneficiaries, (1) workers and (2) dependents.

Legislation in 1919 and 1929 attempted to include the state as a beneficiary, both of which were declared unconstitutional by the California Supreme Court, in *Yosemite L. Co v. Industrial Acc. Com* (1922) 187 Cal. 774, and *Commercial Cas. Ins. Co. v. Indus. Acc.Com.* (1930) 211 Cal. 210, on the grounds that the Legislature may not expand the classes of beneficiaries beyond those enumerated in the Constitution. In 1972, a constitutional amendment added the state as the third permissible beneficiary, stating that such funds would be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

The court characterized an estate as neither a natural nor artificial person, but rather a name to indicate the sum total of the assets of a decedent, or of an incompetent, or of a bankrupt. The goal of the workers compensation system is to compensation injured workers or those dependent on them. In contrast a probate estate may by will, pass the estate property to any designated person or entity, including persons who do not qualify as dependents under the Labor Code.

Since there has been no constitutional amendment presented to the voters to expand the classes of beneficiaries in the California constitution to include a deceased employee's estate, the Legislature was not empowered to enact Labor Code Section 4702(a)(6)(B).

The court granted the petition for writ in part, annulling the award of \$250,000 to the estate, and affirmed the award of \$125, 000 to the state.