

DOCKET NO. 175

| NUMBER | TERM | YEAR |
|------------|-----------------|-------------|
| <u>172</u> | <u>November</u> | <u>1961</u> |

Mrs. Delta Mott, Claimant, widow of
Ralph H. Mott.

VERSUS

Bethlehem Steel Company, Deft.

DOCKET No. 175

Mrs. Delta Kott, claimant

Widow of Ralph H. Mott

VERSUS

Bethlehem Steel Company

**In the Court of Common Pleas of
Clearfield County, Pa.**

No. 172 November Term, 1961

Debt \$

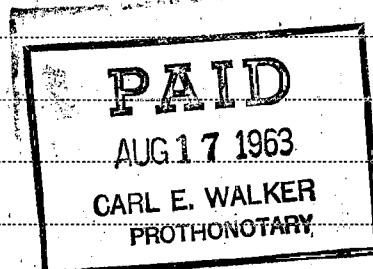
Interest _____

Judg't Entered

Bell, Silberblatt & Swoope \$10.00

Prothonotary 6.50

~~\$16.50~~



Certified from the records this 12th

day of August, A.D. 1963

Prothonotary

COSTS MUST BE PAID PROMPTLY

No. Term, 19

VERSUS

STATEMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DELTA MOTT, : A P P E A L
Widow of Ralph H. Mott,
deceased : From Decision of
Mahaffey, Pa., Plaintiff : Pa. Workmen's Compensation
(Appellant) :
vs. : Board
BETHLEHEM STEEL CO., : #172 November Term, 1961
Bethlehem, Pa. :
Defendant :
(Appellee) :

TO: THE HONORABLE WM. T. HAGERTY, ESQ.
Prothonotary
The Several Courts of
Clearfield County, Pa.

ENTRY OF APPEARANCE IN
BEHALF OF DEFENDANT

Sir:

Enter our appearance as counsel and co-counsel respectively for Bethlehem Steel Company, defendant-appellee in the above captioned cause of action or appeal proceedings from the ~~Decision~~ of the Pennsylvania Workmen's Compensation Board.

Francis A. Dunn
Francis A. Dunn, Esq.
1102 U. S. Bank Bldg.
Johnstown, Pa.

a n d

KELLEY, JOHNSTON & CIMINO, ESQS.
8 N. Front Street
Philipsburg, Pa.

By Eugene L. Cimino
Eugene L. Cimino
Attorneys for Defendant-
Appellee,
Bethlehem Steel Co.

Dated:

December 12th, 1961

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

A P P E A L
From Decision of Pa. Work-
men's Compensation Board
#172 November, Term, 1961

vs.

DELTA MOTT, Widow of
Ralph H. Mott,
deceased
Mahaffey, Pa., Plaintiff
(Appellant)

BETHLEHEM STEEL COMPANY
Bethlehem, Pa. Defendant
(Appellee)

ENTRY OF APPEARANCE
IN BEHALF OF DEFENDANT

Law Offices
Francis A. Dunn, Esq.
Counsel for Defendant-
Appellee
Francis A. Dunn
And

Associate Counsel for
Defendant-Appellee,
Bethlehem Steel Company -
Eugene L. Cimino
Eugene L. Cimino

Law Offices of
KELLY, JOHNSTON & CIMINO
ATTORNEYS AT LAW
PHILADELPHIA, PA.
December _____, 1961

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MRS. DELTA MOTT, :
Claimant, widow :
of RALPH H. MOTT, :
Mahaffey, Penna. :
: No. 172 November Term, 1961
vs. : Appeal by Claimant from Decision of
: the Workmen's Compensation Board,
: reversing the award of referee, John
: H. Cartwright, District No. 7, on
: Claim Petition No. 161,118, Compensa-
: tion Agreement No. 6,896,952
BETHLEHEM STEEL
COMPANY, Defendant
Bethlehem, Penna.

APPEAL

Enter Appeal in behalf of the Claimant, Mrs. Delta Mott, from the decision of the Workmen's Compensation Board, made November 15, 1961, in the above entitled matter.

BELL, SILBERBLATT & SWOPE

by: Richard A. Bell
Attorney for Claimant

Dated: November 29, 1961

STATE OF PENNSYLVANIA :
ss:
COUNTY OF CLEARFIELD :

RICHARD A. BELL, counsel for the Claimant, being duly sworn according to law, deposes and says that he is authorized and directed by the Claimant to make this Affidavit, and that the foregoing Appeal from the Opinion and Decision of the Workmen's Compensation Board is not taken for the purpose of delay, but because the Claimant believes that an injustice has been done by the Decision appealed from.

Richard A. Bell
(Richard A. Bell)

Sworn and subscribed to

before me this 29th

day of November, 1961.

Tom L. Slagerty

PROTHONOTARY

My Commission Expires

1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

| | | |
|--------------------|---|--------------------------------------|
| MRS. DELTA MOTT, | : | |
| Claimant, widow | : | |
| of RALPH H. MOTT, | : | No. November Term, 1961 |
| Mahaffey, Penna. | : | |
| vs. | : | Appeal by Claimant from Decision of |
| | : | the Workmen's Compensation Board, |
| | : | reversing the award of referee, John |
| BETHLEHEM STEEL | : | H. Cartwright, District No. 7, on |
| COMPANY, Defendant | : | Claim Petition No. 16,118, Compensa- |
| Bethlehem, Penna. | : | tion Agreement No. 6,896,952 |

EXCEPTIONS

Now, November 29, 1961, comes the Claimant, Mrs. Delta Mott, and files the following Exceptions to the actions of the Workmen's Compensation Board, of the Commonwealth of Pennsylvania, by reason of its decision dated November 15, 1961, wherein it vacated and set aside certain Findings of Fact, and substituted its own Findings of Fact, vacated the Referee's Conclusions of Law, and substituted its own Conclusions of Law, and vacated the Referee's Award and substituted its own Award, dismissing the Claim Petition and sustaining the claim of the defendant:

- (1). The Workmen's Compensation Board erred in vacating and setting aside the Referee's Findings of Fact No. 6-16.
- (2). The Workmen's Compensation Board erred in vacating and setting aside the Referee's Conclusions of Law.
- (3). The Workmen's Compensation Board erred in vacating and setting aside the Referee's Award and in failing to dismiss the Defendant's Appeal.
- (4). The Workmen's Compensation Board erred in substituting Findings of fact as follows:

SIXTH: The decedent, on May 17, 1960, committed suicide by hanging himself.

SEVENTH: At the time the decedent committed suicide, he did have knowledge of the physical consequences of his act's and and therefore his death was intentionally self-inflicted.

(5). The Workmen's Compensation Board erred in substituting the following Conclusion of Law:

FIRST: Inasmuch as the decedent's death was intentionally self-inflicted, no compensation may be paid.

(6). The Workmen's Compensation Board erred in failing to make the following Conclusion of law:

Because of the decedent's mental condition, his death was not intentionally self-inflicted, within the meaning of Section 301 (A) of the Workmen's Compensation Act, and the widow-claimant is entitled to compensation in accordance with the award of the referee.

(7). The Workmen's Compensation Board erred in substituting and making the following Order:

O R D E R

The fatal Claim Petition No. 161,118, is dismissed.

The appeal of the defendant is sustained.

BELL, SILBERBLATT & SWOOP

by: Richard A. Bell
Attorneys for Claimant

IN THE COURT OF COMMON
PLEAS OF CLEARFIELD COUNTY
Penna., 12 November Term, 1961
No.

MRS. DELTA MOTT, Claimant,
widow of RALPH H. MOTT,
Mahaffey, Penna. vs.

BETHLEHEM STEEL COMPANY
Defendant
Bethlehem, Penna.

NOTICE and APPEAL and
AFFIDAVIT

R. J. H.
F. T. F. D.
NOV 29 1961
WM. T. HAGERTY
PROTHONOTARY
W. T. H.

BELL, SILBERBLATT & SWOOPPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

MRS. DELTA MOTT, :
Claimant, widow :
of RALPH H. MOTT, :
Mahaffey, Penna. : No. 172 November Term, 1961
vs. : Appeal by Claimant from Decision of
BETHLEHEM STEEL : the Workmen's Compensation Board,
COMPANY, Defendant : reversing the award of referee, John
Bethlehem, Penna. : H. Cartwright, District No. 7, on
: Claim Petition No. 161,118, Compensa-
: tion Agreement No. 6,896,952

PRAECIPE FOR CERTIORARI

TO: WILLIAM T. HAGERTY, PROTHONOTARY

Sir:

Issue Writ of Certiorari to the Workmen's Compensation Board
of Pennsylvania, in the above entitled case.

BELL, SILBERBLATT & SWOPE

by: Richard A. Bell
Attorney for Claimant

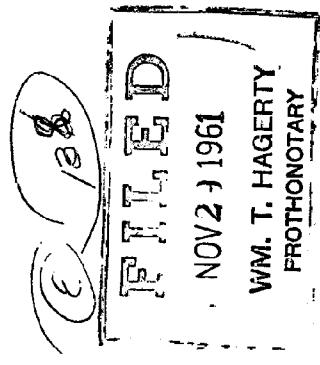
Dated: November 29, 1961

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 172 November Term, 1961

MRS. DELTA MOTT,
Claimant, widow
of RALPH H. MOTT,
Mahaffey, Penna. vs.

BETHLEHEM STEEL COMPANY,
Defendant,
Bethlehem, Penna.

PRAECLPPE FOR CERTIORARI



BELL, SILBERBLATT & SWOOP
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

DELTA MOTT, Widow of : No. 172 November Term 1961
Ralph H. Mott, deceased :
VS : Appeal from Decision of the Work-
men's Compensation Board, Fatal
: Claim Petition Number 161, 118.
BETHLEHEM STEEL COMPANY :

O P I N I O N.

This matter is before the Court, on the appeal of Delta Mott, claimant, and widow of Ralph H. Mott, deceased, from the Decision of the Workmen's Compensation Board, reversing the findings of the Referee, and refusing compensation to claimant for the death of Ralph H. Mott, her husband.

The facts reviewed in the opinion of the Workmen's Compensation Board indicate that Ralph H. Mott, while at work for his employer, the Bethlehem Steel Company, received injuries on the 30th day of July 1958, which injured his spinal column, with the result that he was totally and permanently disabled.

On the 28th of February 1959, the deceased's family physician sent him to a Dr. Staley in the City of Pittsburgh, for neurological examination and psychiatric treatment, because deceased had threatened to commit suicide.

Finally, on the 17th of May 1960, Ralph H. Mott did commit suicide by hanging.

The evidence in respect to the 17th of May incident, indicates that deceased was so helpless that he had to have assistance in order to feed himself. Despite this condition, Mott was able to get from his bedroom to an adjoining building, and commit suicide by hanging.

The evidence produced in support of the claim for compensation, and to overcome the requirement of Section 301 (a), 77 P.S. 341, that "no compensation shall be paid when the injury or death is intentionally self-inflicted"; and to establish that the deceased hung himself while possessed by an uncontrollable, insane impulse, or in a delirium or frenzy induced as a direct result of the accident, and was without rational knowledge of the physical consequences of his act, was found sufficient by the Referee, and compensation for the death of claimant's husband was awarded.

The Board reversed this finding and held that the evidence did not establish that at the time the deceased committed suicide, he had no rational knowledge of the physical consequences of his act; but on the other hand, his death was intentionally self-inflicted; that he was not laboring under any uncontrollable insane impulse, in a delirium, or frenzy.

The claimant, appealing from the Decision of the Board, asserts the evidence produced by the friends and fellow workmen of the deceased, indicating the change of his personality, is, together with the testimony of his Doctor, sufficient evidence to overcome Section 301 (a), 77 P.S. 431, of the Workmen's Compensation Code;

and that the Board should have so found, and sustained the findings of the Referee.

The powers of a court of Common Pleas, on appeal from decisions of the Workmen's Compensation Board, are defined very definitely in DOWNING VS. LEECHBURG MINING CO., 195 Pa. Superior Court 574; Judge Watkins stating, page 578:

"We have also repeatedly held that the referee is only the agent or representative of the Board and that the Board may disregard his findings and establish its own." ANETAKIS V. SALVATION ARMY, 191 Pa. Superior Ct. 268, 271, 156 A. 2d 590 (1959). "The court below had no power to set aside the findings of fact of the board and reinstate the prior findings and award of a referee which had been reversed and set aside by the board. . . . When the board reverses or sets aside a finding of fact of a referee, that finding is thereafter of no force and effect whatsoever." HUDEK V. UNITED ENG. & FDY. CO., 152 Pa. Superior Ct. 493, 497, 33 A. 2d 41 (1943).

"We have also repeatedly held that the findings of the Workmen's Compensation Board, on appeal, are binding on the reviewing court if supported by competent evidence. If the board's conclusion, that the party having the burden of proof, in this case, the employer, has sustained its burden the authority of the court is limited to a determination whether there is substantial competent evidence to sustain the decision of the board. Where the proceedings, as here, involve a petition for termination or modification of an existing agreement, the extent of claimant's injury, his ability to work, and whether the disability has changed, are factual matters for the board to determine. MUENZ V. KELSO BEACH IMP. ASS'N., 181 Pa. Superior Ct. 105, 124 A. 2d 153 (1956)."

The Board did not find the evidence produced by the claimant, namely, the witnesses who testified concerning the depression and meloncholia of the deceased, and his changed personality, of sufficient weight to find that deceased was without rational

knowledge of the physical consequences of his act, or was in a state of meloncholia which interfered with his rational knowledge of the consequences of his act. The claimant asks the Court of Common Pleas to give effect to the testimony of those persons, together with the physician, whose testimony was rejected by the Board as lacking in sufficiency to bear the burden of proof laid upon the claimant.

In ANETAKIS V. SALVATION ARMY, 191 Superior 268, the Court states on page 271, as follows:

"If however the board, as here, rejects the claim, it is not the province of the Court to weigh the testimony and decide whether it would have made the same decision. It can set aside the findings of the board refusing compensation only if they are inconsistent with each other or with its conclusions of law and its order, or if they cannot be sustained without a capricious disregard of the evidence. HUDEK V. UNITED ENG. & FDY. CO., 152 Pa. Superior Ct. 493, 33 A. 2d 41 (1943); STANDISH UNEMPLOYMENT COMPENSATION CASE, 189 Pa. Superior Ct. 471, 151 A. 2d 842 (1959). "The credibility of witnesses, the weight of their testimony, and the reasonable inferences to be drawn therefrom are for the Board, and it is our duty to view the evidence in the light most favorable to the party in whose favor the Board has found: Pierce Unemployment Compensation Case, 189 Pa. Superior Ct. 246, 150 A. 2d 148." BUSFIELD UNEMPLOYMENT COMPENSATION CASE, 191 Pa. Superior Ct. 43, 155 A. 2d 436 (1959)."

The Board has found the testimony produced by the plaintiff insufficient to sustain the position that the deceased killed himself while possessed by an uncontrollable insane impulse, and, as a direct result of the accident, he was without rational knowledge of the physical consequences of his act.

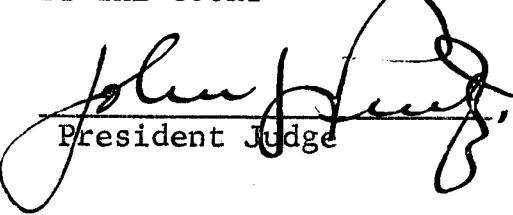
The claimant having failed to establish the suicide was not an intentional act of the deceased, by the weight of the evidence sufficient to convince the Compensation Board that deceased was insane when the suicide was committed, the appeal must be refused.

O R D E R

NOW, May 3, 1962, appeal of Delta Mott, claimant, refused, and the Findings of Fact and Conclusions of Law of the Workmen's Compensation Board are affirmed.

Exception noted.

BY THE COURT


John H. Lewis
President Judge

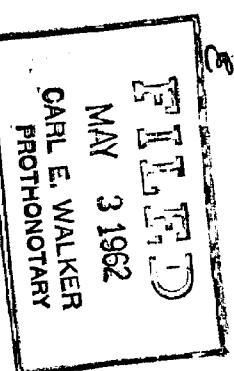
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 172 November Term 1961
Appeal from Decision of Work-
men's Compensation Board Fatal
Claim Petition No. 161,118.

DELTA MOTT, Widow of
Ralph H. Mott, Deceased

VS

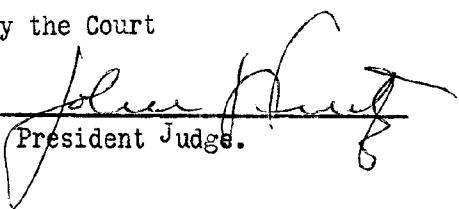
BETHLEHEM STEEL COMPANY

OPINION AND ORDER



NOW, AUGUST 12, 1963, Appeal Records in this case are returned to the
Workmen's Compensation Board.

By the Court


John J. Pentz
President Judge.

JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA