

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

ANDRES LARA (DECEASED), MAGDALENA CANDELARIO, *Applicant*

vs.

**JA CONTRACTING LABOR MANAGEMENT, INC.; CALIFORNIA INSURANCE
GUARANTEE ASSOCIATION FOR ULLICO CASUALTY COMPANY in Liquidation;
TEJON RANCH; STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ7794236
Oxnard District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We granted reconsideration in this matter to further study the factual and legal issues presented. This is our Opinion and Decision After Reconsideration.

I.

Applicant, Magdalena Candelario, and defendant, State Compensation Insurance Fund (SCIF), each petitioned for reconsideration of the Findings and Award and Order of Commutation issued by the workers' compensation administrative law judge (WCJ) in this matter on June 22, 2018. In that decision, the WCJ found that Andres Lara while employed on January 27, 2011 as a farm worker by defendant, JA Contracting Labor Management, Inc., a general employer, then insured by Ullico Casualty Company, the liability of which has been assumed by the California Insurance Guarantee Association (CIGA), and by defendant, Tejon Ranch Corp., a special employer, then insured by SCIF, sustained injury arising out of and in course of the employment resulting in his death. The WCJ also found that SCIF, which insured the special employer, is solely liable for the payment of dependency benefits. The benefits were awarded in favor of applicant Candelario who the WCJ found to be a total dependent of the deceased employee.

Applicant Candelario contends in her Petition for Reconsideration that the WCJ erred in not finding that applicant Alexis Lara, the deceased employee's grandson, was also a total dependent of the deceased employee at the time of his injury.

SCIF contends in its Petition for Reconsideration that the WCJ erred in finding that Tejon Ranch Corp. was the deceased employee's special employer at the time of his injury.

The WCJ issued a report in which she recommended that SCIF's Petition for Reconsideration be denied and that applicant's Petition for Reconsideration be granted.

Subsequently, at our request the parties participated in a commissioners' settlement conference and agreed to resolve this matter by Compromise and Release.

The Compromise and Release was filed on July 14, 2021, and Addendum A to the Compromise and Release was filed on August 16, 2021. The Compromise and Release provides for a settlement of \$265,000 payable to applicant Candelario, less an attorney's fee of \$47,700. The Compromise and Release also provides that CIGA will pay \$105,000 and SCIF will pay \$160,000 of the settlement amount. In addition, SCIF and CIGA agree that the former will pay the latter \$6,753.30 to resolve the latter's reimbursement claim.

Addendum A of the Compromise and Release alleges that applicant Alexis Lara was the grandson of the deceased employee, that Alexis Lara was a minor child and total dependent in the household of the deceased employee at the time of the injury and death, that Alexis Lara died in 2014, and that the parties have ascertained no dependents of the deceased employee other than the applicants and no dependents or heirs of Alexis Lara.

II.

Labor Code section 5001 states in pertinent part that "[n]o release of liability or compromise agreement is valid unless it is approved by appeals board or referee."

WCAB Rule 10700 states that:

"The Workers' Compensation Appeals Board shall inquire into the adequacy of all compromise and release agreements and stipulations with request for award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards."
(Cal. Code Regs., tit. 8, § 10700.)

Labor Code section 5002 states that:

"A copy of the release or compromise agreement signed by both parties shall forthwith be filed with the appeals board. Upon filing with and approval by the appeals board, it may, without notice, of its own motion or on the application of either party, enter its award based upon the release or compromise agreement."

Labor Code section 4704 states that:

“The appeals board may set apart or reassign the death benefit to any one or more of the dependents in accordance with their respective needs and in a just and equitable manner, and may order payment to a dependent subsequent in right, or not otherwise entitled thereto, upon good cause being shown therefor. The death benefit shall be paid to such one or more of the dependents of the deceased or to a trustee appointed by the appeals board for the benefit of the person entitled thereto, as determined by the appeals board.”

After considering the compromise and release in light of the entire record, we conclude that the settlement amount is adequate and that the agreement is in the best interest of applicant Candelario. We also conclude that the record justifies the reassignment of applicant Alexis Lara’s share of the settlement proceeds to applicant Candelario under Labor Code section 4704. In addition, we conclude that the attorneys’ fee requested is reasonable and should be allowed.

Therefore, we will rescind the Findings and Award and Order of Commutation issued on June 22, 2018, and approve the Compromise and Release.

Finally, we commend the parties for engaging in good faith negotiations and successfully resolving this matter without the need for further litigation.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers’ Compensation Appeals Board that the Findings and Award and Order of Commutation issued in this matter on June 22, 2018, be **RESCINDED**.

IT IS FURTHER ORDERED that the Compromise and Release filed July 14, 2021, be **APPROVED**.

AWARD IS MADE in favor of **MAGDALENA CANDELARIO** against **STATE COMPENSATION INSURANCE FUND and CALIFORNIA INSURANCE GUARANTEE ASSOCIATION FOR ULLICO CASUALTY COMPANY in Liquidation** as specified in the Compromise and Release.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER



/s/ DEIDRA E. LOWE, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 18, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**MAGDALENA CANDELARIO
LAW OFFICE OF HOWARD J. WASSERMAN
STATE COMPENSATION INSURANCE FUND
LAUGHLIN, FALBO, LEVY & MORESI**

DH/ara

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date.
CS