

FINAL AWARD ALLOWING COMPENSATION
(After Mandate from the Missouri Court of Appeals for the Western District of Missouri)

Injury No.: 03-137509

Employee: Glenda Taylor, deceased
Claimant: Marvin Taylor, surviving spouse
Employer: Ballard R-II School District
Insurer: Missouri United School Insurance/Gallagher Bassett Services
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

On January 27, 2009, the Missouri Court of Appeals for the Western District issued an opinion affirming in part and reversing in part the award and decision of the Labor and Industrial Relations Commission (Commission). *Taylor v. Ballard R-II Sch. Dist.*, 274 S.W.3d 629 (Mo.App. 2009) (WD69406) (January 27, 2009). By mandate dated February 18, 2009, the Court remanded this matter to the Commission for further proceedings in accordance with the Court's opinion.

Pursuant to the Court's mandate, we issue this award. Having reviewed the evidence and considered the whole record, the Commission finds that the award should be modified. Pursuant to section 286.090 RSMo, the Commission modifies the award and decision of the administrative law judge dated July 2, 2007. The award and decision of Administrative Law Judge Karen Wells Fischer is attached and incorporated to the extent it is not inconsistent with our findings, conclusions, decision, and award herein.

Marvin Taylor, employee's surviving spouse, was employee's dependent at the time she incurred her work-related injury. Under *Schoemehl v. Treasurer of State*, 217 S.W.3d 900 (Mo. banc 2007), which was in effect and applicable to this case, when an employee has been awarded permanent total disability benefits and subsequently dies of a cause unrelated to the work injury, the employee's dependents are entitled to receive the awarded benefits for their lifetime. Consequently, because employee was awarded permanent total disability benefits and subsequently died of a cause unrelated to her work injury, Marvin Taylor, as Glenda Taylor's dependent, is entitled to receive the awarded permanent total disability benefits for the remainder of his lifetime.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 3rd day of April 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

NOT SITTING

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary