

**BEFORE THE WORKERS' COMPENSATION COURT  
STATE OF OKLAHOMA**

**In re claim of:**

<b>DALE ELLIS DEBERRY,</b>	)	
	)	
<b>Deceased,</b>	)	
	)	
	)	<b>Court No.:</b>
<b>TONYA ANN DEBERRY, spouse and</b>	)	
<b>next friend of LINDSEY ANN</b>	)	
<b>CRAWFORD and COOPER ELLIS</b>	)	
<b>DEBERRY,</b>	)	
<b>Claimants</b>	)	
	)	
<b>CITY OF NORMAN,</b>	)	<b>Decedent's Social Security</b>
	)	
<b>Respondent</b>	)	
	)	
<b>OWN RISK</b>	)	
<b>Ins. Carrier.</b>	)	

**ORDER**

Now on this 22<sup>nd</sup> day of April, 1999, this cause comes on for consideration pursuant to regular assignment before the undersigned Judge of the Workers' Compensation Court at Oklahoma City, Oklahoma, at which time the claimant appeared in person and by counsel, Phil Richards, and respondent appeared by counsel, Jeff H. Bryant.

The Court, having considered the evidence, records on file, and being fully and well advised in the premises, FINDS AND ORDERS AS FOLLOWS:

[1]

THAT on December 1, 1998, the deceased, Dale Ellis DeBerry, was in the employ of the above-named respondent, engaged in an occupation subject to and covered by the provisions of the Workers' Compensation Act of the State of Oklahoma; and that on said date Dale Ellis DeBerry sustained an accidental personal injury arising out of and in the course of deceased's employment with the respondent, from and as a result of which the deceased died on December 1, 1998.

[2]

THAT Tonya Ann DeBerry, as surviving spouse, and as mother and next friend of Lindsey Ann Crawford and Cooper Ellis DeBerry, minor children of the deceased and only dependent heirs-at-law of the deceased, is the proper party to bring this action.

[3]

THAT Tonya Ann DeBerry, Lindsey Ann Crawford and Cooper Ellis DeBerry are the only persons who were dependent upon said deceased at the time of death and Tonya Ann DeBerry, Lindsey Ann Crawford and Cooper Ellis DeBerry and no other or others, who are heirs-at-law, have suffered a pecuniary loss by reason of the death of Dale Ellis DeBerry.

[4]

THAT by reason of the death of Dale Ellis DeBerry, as a result of the injuries sustained on December 1, 1998, the respondent herein is liable for payment of the benefits provided by law in such cases, same being as follows:

- TO: Tonya Ann DeBerry, as surviving spouse, a lump sum of \$20,000.00 for the sole use and benefit of said surviving spouse;
- TO: Tonya Ann DeBerry, mother and next friend of Lindsey Ann Crawford, minor child of the deceased, a lump sum of \$5,000.00; to be placed in trust in a federally insured banking institution or savings and loan; for the sole use and benefit of said minor child; and
- TO: Tonya Ann DeBerry, mother and next friend of Cooper Ellis DeBerry, minor child of the deceased, a lump sum of \$5,000.00; to be placed in trust in a federally insured banking institution or savings and loan; for the sole use and benefit of said minor child.

[5]

THAT the continuing benefits to the said heirs-at-law of the deceased, as provided by the Oklahoma Workers' Compensation Act, shall be as follows, accrued from the date of death of the deceased:

- TO: Tonya Ann DeBerry, as surviving spouse, a lump sum of \$6,091.80, representing 20 weeks and 3 days of income benefits at \$298.20 per week, for the sole use and benefit of said surviving spouse.
- TO: Tonya Ann DeBerry, as surviving spouse, the sum of \$298.20 per week from April 22, 1999, for the sole use and benefit of said surviving spouse unless and until such time as said surviving spouse shall remarry and in that event the weekly income benefit shall cease and said surviving spouse shall be entitled to a two (2)

years indemnity benefit totaling \$31,012.80, payable in a lump sum upon proper proof of remarriage and notification of the same.

- TO: Tonya Ann DeBerry, mother and next friend of Lindsey Ann Crawford, minor child of the deceased, the accrued sum of \$1,305.39, representing 20 weeks and 3 days of income benefits at \$63.90 per week; to be placed in a trust in a federally insured banking institution or savings and loan; for the sole use and benefit of said minor child.
- TO: Tonya Ann DeBerry, mother and next friend of Cooper Ellis DeBerry, minor child of the deceased, the accrued sum of \$1,305.39, representing 20 weeks and 3 days of income benefits at \$63.90 per week; to be placed in a trust in a federally insured banking institution or savings and loan; for the sole use and benefit of said minor child.
- TO: Tonya Ann DeBerry, mother and next friend of Lindsey Ann Crawford, the sum of \$63.90 per week from April 22, 1999, for the sole use and benefit of the said minor child and said benefits shall continue until said child (1) dies, marries, or reaches age 18, or (2) if over age 18 and having qualified as being physically or mentally incapable of self support or actually dependent, ceases such dependency, or (3) if over age 18 and continually enrolled in any accredited educational institution, ceases to be enrolled or reaches the age of 23 years.
- TO: Tonya Ann DeBerry, mother and next friend of Cooper Ellis DeBerry, the sum of \$63.90 per week from April 22, 1999, for the sole use and benefit of the said minor child and said benefits shall continue until said child (1) dies, marries, or reaches age 18, or (2) if over age 18 and having qualified as being physically or mentally incapable of self support or actually dependent, ceases such dependency, or (3) if over age 18 and continually enrolled in any accredited educational institution, ceases to be enrolled or reaches the age of 23 years.

[6]

THAT the continuing benefits provided for in this Order are based on \$759.46, the deceased's average weekly wage, which at the time of the injury was sufficient to allow the use of the compensation rate of \$426.00 per week.

[7]

THAT no funds shall be withdrawn from said trusts without an Order from the Workers' Compensation Court.

[8]

THAT the respondent and insurance carrier is ordered to pay the named heirs-at-law the benefits provided by law and set forth above within fifteen (15) days from the date of filing of this Order.

[9]

THAT Special Occupational Health and Safety Fund Tax of three-fourths of one percent of the amounts paid in a lump sum or \$290.27 is levied against the respondent; three-fourths of one percent of the continuing benefits awarded in this case shall be computed and paid as the same come due. Respondent shall pay \$774.05 to the Workers' Compensation Administration Fund representing 2% of the award herein; and 2% of the continuing benefits shall be computed and paid as the same comes due.

[10]

THAT respondent shall pay court costs of \$75.00; the Court has noted and accepts the waiver of an attorney fee for legal services performed by claimants' attorney. That within 20 days from the date of filing this Order, respondent shall file herein proper receipt evidencing compliance with this Order.

BY ORDER OF:

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JUDGE OF THE WORKERS'  
COMPENSATION COURT

REVIEWED AND APPROVED BY:

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