

BEFORE THE INDUSTRIAL ACCIDENT BOARD
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

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MOHAMMED RAFIQUE ULLAH)
(DECEASED),)

Claimant,)

v.)

Hearing No.)

KAILASH & SONS, CORP., d/b/a)
7-ELEVEN STORE #18494)
Employer.)

ORDER

WHEREAS, the deceased claimant, Mohammed Rafique Ullah, died on 9/12/12 from injuries sustained by him on that date and arising out of and in the course and scope of his employment;

WHEREAS, the average weekly wage of the deceased claimant was \$450.00 per week;

WHEREAS, at the time of his death, the claimant was married to Nahida Akter (Hiru) who, at all relevant times, was a non-resident alien dependent and a resident of Bangladesh;

WHEREAS, the deceased claimant and surviving spouse had one child, also a non resident alien dependent;

WHEREAS, per 19 Del. C.§2330(a)(3) the compensation for death would be 66 and 2/3% of wages but for the fact that the surviving spouse is a non-resident alien;

WHEREAS, per 19 Del. C.§2333 compensation to, "alien dependents, surviving

spouses and children not residents of the United States shall be one-half of the amount provided in each case for residents..." so that the compensation rate is \$150.00 per week to the surviving spouse;

WHEREAS, per signed Agreement of the parties, since 9/12/12 the Employer/Carrier has been paying to the surviving spouse who still resides in Bangladesh the sum of \$150.00 per week;

WHEREAS, the Employer wishes to exercise its right pursuant to 19 Del. C. §2333(a) which states that the Employer, "may at any time commute all future installments of compensation payable to alien dependents not residents of the United States by paying to such alien dependents the then value thereof, calculated in accordance with §2358 of this Title.";

WHEREAS, Gary S. Nitsche, Esquire, has advised the attorney for the Employer that he represents the non-resident alien dependents so that he, rather than the Consular offices of the Nation of Bangladesh, "may receive for distribution to such non-resident alien dependents all compensation awarded [per the Commutation referenced above] and the receipt of Mr. Nitsche shall be a full and final discharge of all sums paid to and received by them." 19 Del. C. §2333(b);

WHEREAS, the surviving spouse is a 35-year old female (DOB: 9/10/79) and per the provisions of §2358, the present day value of her weekly benefit entitlement at \$150.00 per week and discounted at 5% interest is equal to \$138,498.31;

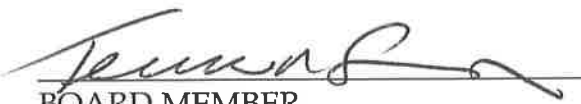
WHEREAS, on this 7th day of APRIL, 2015, the attorney for the Employer/Carrier has tendered to Gary S. Nitsche, Esquire, the attorney for Nahida Akter (Hiru) a check made payable to Nahida Akter (Hiru) as the surviving spouse of Mohammed Ullah (deceased) in the amount of \$138,498.31;

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the Employer's application to commute any and all death benefits pursuant to 19 Del. C. §2330 that were, are, or may be payable or due as a result of the 9/12/12 work accident and resulting death of Mohammed Ullah and for which the Employer/Carrier may be responsible under Delaware law in the amount of \$138,498.31 is hereby granted. It is further Ordered that the period within which either party has to appeal this Order is hereby waived so that said Order is final and binding as of the date of its issuance.

SO ORDERED this 9th day APRIL, 2015.


INDUSTRIAL ACCIDENT BOARD



BOARD MEMBER


BOARD MEMBER

ATTEST:

Stephanie Parker, Administrator of the
Office of Workers' Compensation

Mailed: 4.10.15 

 , Esquire, for the Board
Gary S. Nitsche, Esquire, Attorney for Claimant
John W. Morgan, Esquire, Attorney for Employer/Carrier