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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-186611

DATE: NOV 9 1976

MATTER OF: Estate of Edith Schreier Jonas

DIGEST:

Under International Claims Settlement Act of 1949, 22 U.S.C. §§ 1621 et seq. if awardee of claim dies, payment is not over \$1,000, and no administrator or executor has been appointed, Comptroller General determines persons entitled to payment. Generally, State law will be followed. Under applicable California law, separate property of intestate decedent survived by spouse and more than one child passes one-third to spouse, and remaining two-thirds equally among children.

This decision responds to a communication from the Department of the Treasury concerning our determination of the persons entitled to the unpaid balance of three claim awards, made to Edith Schreier Jonas, deceased, pursuant to the International Claims Settlement Act of 1949, 22 U.S.C. §§ 1621 et seq. (1970). Our Claims Division determined on December 3, 1975, based on claims by him, that Oswald Jonas, surviving spouse, was entitled to the amounts due. Ernest J. Hill, Esquire, in a letter transmitting the claims by Mr. Jonas, stated that the awards should be divided equally among Mr. Jonas and the decedent's two children. Mr. Hill, representing all the heirs at law of Mrs. Jonas, has requested reconsideration of the award to Mr. Jonas. This request has been forwarded to us by the Department of the Treasury. Mr. Hill contends that the claim awards were the separate property of Mrs. Jonas, and that pursuant to the California intestate succession scheme, the surviving spouse and the two surviving children should each receive one-third thereof.

Mrs. Jonas, a domiciliary of the State of California, died intestate on September 13, 1974. In his claim, filed on May 19, 1975, Mr. Jonas stated that there had not been nor would there be appointed an executor or administrator of the decedent's estate. We have also been informally advised that the value of the estate did not justify the cost of formal administration.

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Payment of the claim is subject to 22 U.S.C. § 1626(c)(1), which provides in part that if the beneficiary of an award under the Act is deceased, payment shall be made to his legal representative except that--

"\* \* \* if any payment to be made is not over \$1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates."

Annual payments on each of the three awards, even added together, are less than \$1,000, making the quoted portion of 22 U.S.C. § 1626 (c)(1) applicable. B-167253, July 15, 1969. We have recognized, in determining entitlement under that section, that ordinarily State law governs.

Section 221, California Probate Code, governing intestate succession, provides in effect for separate property of a decedent survived by a husband and two children to be distributed one-third to each. In view of that provision, we conclude that one-third of the amount of each claim should be distributed to Oswald Jonas, the surviving spouse of the decedent, one-third to Irene Scott, the surviving daughter, and one-third to Ernest Ascher, the surviving son.

Our earlier determination in this matter that the surviving spouse was entitled to the entire award was based on the statement in his claim that he had paid the funeral expenses of Edith Jonas. Ordinarily, we will give effect to any priority which State law may create in favor of payment of funeral expenses. We have since been informed by Mr. Hill, however, that the surviving spouse was reimbursed by the estate of Mrs. Jonas for the amount of the funeral expenses. Accordingly, entitlement may be determined, as we have now done, without regard to the question of payment of funeral expenses.

Acting

R. F. NYZLER  
Comptroller General  
of the United States