

Opinion No. 39-3198

June 29, 1939

BY: FILIO M. SEDILLO, Attorney General

TO: Mr. B. G. Dwyre, State Highway Engineer, Santa Fe, New Mexico. Attention: R. L. Ormsbee, Chief Clerk

{*74} With respect to the appropriation of \$ 500.00 made by Chapter 214, Laws of 1939, which apparently is to be made from Highway funds, you inquire whether the appropriation and payment of this money would constitute a diversion of monies from Highway purposes set out in Section 12 of the Hayden-Cartwright Act, 48 Stat. 993.

The money is to compensate Frank Lopez for the death of his daughter caused by {*75} an oil distributor truck being operated by the Highway Department. It would seem that since the damage was caused in the work of highway maintenance or construction, payment of this compensation would be incidental thereto and a proper charge for administrative expenses, just as insurance premiums on public liability policies issued to protect against loss would be. I am sure the federal authorities would not consider this insignificant sum of \$ 500.00 disbursed for damages done in the construction or maintenance of the highway as a diversion of money, subjecting the state to any loss in participation of federal highway funds.

It is my opinion, therefore, that payment should be made in the manner outlined in my letter of May 24, Opinion No. 3145.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.