



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

Honorable Frank Wright
County Auditor
Fannin County
Bonham, Texas

Dear Sir:

Opinion No. 0-2473

Re: Is the county liable for personal
injuries of road hands received while
employed by the county?

Your recent request for an opinion of this department on the above stated question has been received.

With reference to your question we call your attention to our opinions Nos. 0-779 and 0-2136. Opinion No. 0-779 holds that:

"It is not the duty of the county or of the road precinct to carry employer's liability insurance for the protection of road workmen of the county."

Opinion No. 0-2136 deals with the question of whether or not the Commissioners' court has the right and authority to pay a claim for damages resulting from the death of an employee of the county in a collision while on his way to work for the county. The opinion holds that the commissioners' court cannot legally pay the claim.

We are enclosing copies of the above mentioned opinions for your convenience.

We quote in part from the case of Bryan vs. Liberty County, 299 SW303-4 as follows:

". . . .It has long been the law of Texas that a county is not liable in damages for personal injuries sustained by one in consequence of the tortious or negligent acts of its agents, servants and employees unless such liability be created by statute, either in express terms or by implication. Heigel vs. Wichita County, 84 Tex. 392, 19 SW 562, 31 Am. St. Rep. 63; Walton vs. Travis County, 5 Tex. Civ. App. 525, 24 SW 352; Crause vs. Harris County, 19 Tex. Civ. App. 375, 44 SW 616; Riley vs. Coleman County (Tex. Civ. App.) 181 SW 743;; Hart vs. Harris County (Tex. Civ. App.) 244 SW 1103; Harris County vs. Derhart, 115 Tex. 449, 283 SW 139. All these authorities sustain the counter-proposition advanced by the

defendant here that a county is not liable in damages for personal injuries negligently inflicted by the county's agents, servants and employees, in the absence of a statute creating such liability in express terms or by implication."

There is no statute creating such liability in express terms or by implication, making the county liable for personal injuries of road hands received while employed by the county.

In view of the foregoing authorities, your question is respectfully answered in the negative.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Ardell Williams

By

Ardell Williams
Assistant

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APPROVED JUN 27, 1940
s/ GERALD C. MANN
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE
BY B. W. B.
CHAIRMAN