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## Workmen's Compensation

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case, the court does not expressly overrule the *Hoscheid* case, recognizing that a factual distinction "may" exist. But the court is express in repeating its disapproval of the "all-inclusive" interpretation given the statute in the *Hoscheid* case.

The *Gherra* case goes further: by way of dictum it states that actions based upon the burning, cancelling, etc. of the will (RCW 11.12.040), the subsequent divorce of testator (RCW 11.12.050), a surviving pretermitted child (RCW 11.12.090), or a lapsed legacy or devise (RCW 11.12.120), do not fall within the scope of RCW 11.24.010 and, like claims of revocation by subsequent will or subsequent marriage of the testator, may be initiated at any time before final distribution of the estate.

W. ROGER JOHNSON

### WORKMEN'S COMPENSATION

Employers Covered by Act—Nonresident Motor Carrier. *McClung v. Pratt*, 44 Wn.2d 779, 270 P.2d 1063 (1954), was an action for personal injuries arising out of a collision which took place within the State of Washington. Plaintiffs were Boeing employees who were riding in the bus of their employer; defendant was a non-resident trucker who was engaged solely in interstate commerce within the State of Washington. The defendant contended that under the provisions of RCW 52.24.010 the suit of the plaintiffs was barred, and that the plaintiffs would have to seek recovery through the procedures provided in the Workmen's Compensation Act. The trial court found that the defendant was not covered by the act and held for the plaintiffs. This decision was affirmed on appeal. The Supreme Court said that the provisions of the act which made it applicable to employers engaged in intrastate and also in interstate commerce, did not make it applicable to a carrier engaged in interstate commerce only within the state. On this ground it was held that the defendant was not covered by the act, and was not entitled to the immunity granted therein.