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Workman's Compensation

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WORKMAN'S COMPENSATION

Causation in Heart Cases. Whether a heart attack and resulting disability is compensable under the Workman's Compensation Act depends on whether such an attack is the result of an industrial injury. "Injury" is defined in the Workman's Compensation Act as follows:

> Injury means a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result, and occurring from without; an occupational disease; and such physical condition as results from either.[1]

Claims for heart attacks are allowed on the basis of a traumatic happening rather than on the basis of occupational disease.[2]

The Supreme Court of Washington has set up the following requirements for a recovery in a heart case under the Workman's Compensation Act:

1. An immediate or prompt result;
2. A tangible happening occurring from without; and
3. A causal relationship showing that the happening caused the attack to occur when it did occur and without which the attack would not have occurred when it did.[3]

In the case of *Mork v. Department of Labor and Industries*,[4] the Washington court set out a further explanation of the causal relationship necessary for a recovery for an industrial injury in a heart case. The court ruled that to be compensable under the Workman's Compensation Act, a heart attack must have a causal relationship to the death of the workman, *who otherwise would have lived for an indefinite and unpredictable time.*

In the *Mork* case, the workman complained at the plant office of "gas in his stomach, up to his neck" (a frequent symptom of the onset of a coronary occlusion). He then walked back up to his station twenty-six feet above the ground. Twenty-five minutes later he was found dead of a coronary occlusion. Atherosclerosis had been present in an advanced stage for several years.

The claimant, Minnie Mork, applied for a widow's pension, which

[1] RCW 51.08.100.
[2] Higgins v. Department of Labor and Industries, 27 Wn.2d 816, 180 P.2d 559 (1947), and cases cited therein.
[3] Petersen v. Department of Labor and Industries, 40 Wn.2d 635, 245 P.2d 1161 (1952).
[4] 148 Wash. Dec. 67, 291 P.2d 650 (1955).

was awarded to her by the Supervisor of Industrial Insurance. The employer appealed and the Board of Industrial Insurance Appeals reversed the Supervisor. The claimant appealed to superior court and a judgment was entered for the claimant after a jury trial.

The claimant relied upon the deceased's climb from the office back up to his station as constituting the compensable industrial injury proximately contributing to the death of the workman. The supreme court held that the act of the deceased in returning to his station was not an industrial injury within the meaning of the Workman's Compensation Act.

The Washington court in the past has been very liberal in granting widow's pensions in heart cases. Some of the recoveries in these cases have seemed contrary to the purpose of the Workman's Compensation Act as a compensation system to avoid the inequities and deficiencies of the common-law remedies for industrial accidents. The unfortunate result of lenient recoveries in this field has led to an unusually large number of litigated cases and also to a reluctance on the part of employers to hire cardiac patients in industry.[5]

Much of the confusion in this field has resulted from a misconception of the rule stated in the case of *McCormick Lumber Co. v. Department of Labor and Industries,* where the court said:

> An accident arises out of the employment when the required exertion producing the accident is too great for the man undertaking the work, whatever the degree of exertion or the condition of the workman's health.[6]

This rule merely states that unusual strain or exertion is not necessary to provide the "traumatic happening" required by the statute defining "injury," and is not concerned with the matter of causal relationship.

However, the application of the rule of the *McCormick* case has resulted in recoveries in heart cases where the causal relationship was doubtful, at best.[7]

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[5] See Rutledge, *Proposed Procedure for Administering Heart Cases Under the Washington Industrial Insurance Act,* 31 WASH. L. REV. 67 (1956) on the problem of the employability of cardiacs in industry and a suggested program for improving the administration of the Workman's Compensation Act in this area.

[6] 7 Wn.2d 40, 59, 108 P.2d 807, 815 (1941); noted in 16 WASH. L. REV. 167 (1941).

[7] Guy F. Atkinson Company v. Webber, 15 Wn.2d 579, 131 P.2d 421 (1942). In this case a widow's pension was allowed where the workman died while operating a bulldozer. No specific incident was relied upon and all the evidence showed that the workman had a very bad heart condition and his death might have occurred at any time. Northwest Metal Products v. Department of Labor and Industries, 12 Wn.2d 155, 120 P.2d 855 (1942). A recovery for disability was granted where a workman

In the leading case of *Petersen v. Department of Labor and Industries*,[8] the court indicated an intention to scrutinize more carefully the causal relationship between the happening and the alleged injury rather than to concentrate on the nature of the happening itself. The court in that case said:

> We have never held that the dependent of one who dies of heart trouble is entitled to compensation because the onset of the attack occurred while engaged in extra-hazardous employment. We have never dispensed with a minimum showing that the employment must have been more likely than not a contributing factor to the death, without which the death would not have occurred when it did.[9]

The claimant in the *Mork* case, evidently relying on the broad language of the above rule in the *Petersen* case, depended upon the testimony of a doctor to the effect that the deceased workman would have lived at least one minute longer if he not climbed the steps. The court held that the theory that an acceleration of death of one minute met the requirement of causation was unsound. The court stated:

> Even in heart cases, compensability is not predicated upon principles of ordinary life insurance... To be within the act, an industrial injury must have a causal relationship to the death of the workman, *who otherwise would have lived for an indefinite and unpredictable time.*[10]

The strong language of the court in the *Mork* case seems to emphasize the trend of the court toward holding claimants to a higher standard of proof of the causal relationship in heart cases. This seems to be a desirable trend in keeping with the original purpose of the Workman's Compensation Act as a compensation act rather than as an insurance program.

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with rheumatic heart disease was disabled while doing his ordinary work on a crimping machine. The medical testimony showed that the workman should not have been working for the previous ten years. Summerlin v. Department of Labor and Industries, 8 Wn.2d 43, 111 P.2d 603 (1941). In this case a widow's pension was allowed where the workman, who was suffering from extensive coronary heart disease, died while doing his usual work of falling timber. He had jumped six feet onto a tree root.

[8] 40 Wn.2d 635, 640, 245 P.2d 1161, 1164 (1952). In this case, the court found that rolling a barrel up an incline satisfied the statutory requirement of a happening but held that nevertheless there was no injury within the statute as the claimant had failed to show the casual relation between the happening and the heart attack.

[9] 40 Wn.2d 635, 640, 245 P.2d 1161, 1164 (1952).

[10] Mork v. Department of Labor and Industries, 148 Wash. Dec. 67, 69, 291 P.2d 650, 652 (1955).