North Dakota Law Review

Volume 8 | Number 10 Article 4

1931

Assessment Notice

North Dakota Law Review

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Recommended Citation

North Dakota Law Review (1931) "Assessment Notice," *North Dakota Law Review*: Vol. 8 : No. 10 , Article 4.
Available at: https://commons.und.edu/ndlr/vol8/iss10/4

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The original purpose and intent of compensation legislation was two-fold: 1. To reduce the number of industrial accidents; 2. To protect the workman or his dependents financially in case he was injured.

The first purpose has never been accomplished; in fact, the number of industrial accidents has increased by leaps and bounds with the application of the compensatory theory. The second purpose has been accomplished, and with such extraordinary, all-inclusive effect that there is grave danger that economic need and social welfare will replace accident insurance as the guiding medium, and eventually kill off these beneficial laws or bring reductions in benefit schedules to the extent of making the laws absurdities.

A workman is suffering from brain tumors. They have destroyed his vision to the extent of 50% in one eye and 16% in the other. He has an accident in the course of employment—a blow so light that it leaves no mark, abrasion or discoloration—but it lights up the action of the tumors, and he loses all sight in the course of a few months. "The immediate result of the active force is the proximate result" is the legal theory in damage cases, and correctly stated. The employer didn't strike the blow, the employment wasn't responsible for the presence of the tumors, but the judgment held industry responsible for the full result, permanent total disability.

A big, overgrown boy, carries his overweight for a number of years, then engages in one act of lifting, for wages, with other men. Then and there he discovers that he has flat-foot. Tests show that it is second-degree flat-foot, which, experts claim, does not constitute a disabling condition. The lifting is construed to be the proximate cause, and judgment is entered for a permanent disability amounting to 90%.

Two workmen, mentally normal and generally careful and reliable, are warned about certain dangerous conditions of the employment. The first is told that he must not go into a certain mine room. He disobeys instructions, is killed, and the family is awarded compensation. The second is told that he must not oil the machinery while it is in motion. One day he is late in getting started. To avoid further delay, he takes the chance, disobeys, and is maimed for life. Compensation protects him for his negligent act.

The point to be remembered is this: That, in ninety-nine out of a hundred compensation cases, the employer is NOT a wrong-doer, and the whole theory of workmen's compensation is payment for the result of accidents regardless of fault. Hence, the rules laid down for the law of torts have no application, and much more definiteness of proof must be required of claimants to show that the proximate cause of a claimed disability was an accident in the course of the employment. Chronic arthritis is the proximate cause of pain in most cases of strain or lifting. The incidents of straining or lifting are, usually, the means of discovering the presence of the arthritis. To hold the employer and his insurance carrier responsible by saying "the immediate result of the active force is the proximate result" will burden industry with such a host of permanent disability cases that it can not hope to meet the financial requirements.

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