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Dissenting Opinion

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certainty. Generally speaking, a person injured going to or from work is not in the course of employment, and the injury is not compensable. As soon, however, as the premises of the employer, or some road or way which supplies the only means of access to the premises, is reached, the person is in the course of employment. In this connection it might be of interest to cite the case of *Hornburg vs. Morris,* 157 *N. W.* 556, where it is held that the streets and sidewalks of a city are not premises so far as their use by a city employee, using them solely for the purpose of going to a definite place of employment, is concerned. The use of a conveyance to and from work, when supplied by the employer, and used because required or as a matter of right by virtue of the contract of employment, brings the one using it within the term "in the course of employment."

The question of dependency arises in death cases. The lines of proof required in such cases are: 1. What sum of money is required and necessary to maintain the alleged dependent in the manner and style to which he or she has been accustomed? 2. What income has the alleged dependent, and what are the sources of such income? 3. What has been the contribution of the decedent during the twelve months preceding death, and what was the purpose of such contribution?

It is usually in cases where the dependency is less than total that attorneys fail to present competent testimony upon which the Bureau may base a fair decision. Where the dependency is total, the law itself provides the amount of the award. Where it is less than total, however, it becomes important that all the evidence bearing upon the percentage of that dependency be presented, if a fair and equitable award is to be entered. A widow need not prove dependency if she was living with her husband at time of injury resulting in death.

DISSENTING OPINION

Mr. W. H. Stutsman voices his disagreement with the review of the case of Chrysler vs. Belfield in last month's issue of Bar Briefs in the following: "With all due regard to 'A. E. A.' I cannot but feel that the Supreme Court decision of Chrysler Light & Power Co. vs. City of Belfield has gone right over his head. At any rate, the paragraph in Bar Briefs for May will mislead the thoughtless lawyer who looks no farther than the statement made. The Supreme Court did not hold that the Board of Railroad Commissioners could not change service rates fixed in the franchise for the general consumer, for that was not in issue. The question there was whether the franchise fixing rates for street lighting, and service furnished directly to the city, as distinguished from the inhabitants of the city, was a binding contract which prevented a change of rates by the Board of Railroad Commissioners. The Court held that the Utility Act, passed subsequently to the adoption of the franchise, did not confer any such power on the Commission." (Ed.—We appreciate the criticism, and wish there were more of them, favorable or unfavorable, but respectfully direct attention to the following: That the general consumers were not parties to the action, hence, the only rates "in issue" were the rates charged to the corporate city; that it is agreed that the reviewing statement might "mislead the thoughtless lawyer"; but that there are few, if any, "thoughtless lawyers" in North Dakota, hence, few would draw an unwarranted inference from the statement of the reviewer, whose "head" may or may not be properly designated by "his.")