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Workmen's Compensation Decisions

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Dehn vs. N. D. Workmen's Compensation Bureau. The claimant's husband died from encephalitis-lethargic, or sleeping sickness, the contention being that the disease resulted from working in dirty, dusty surroundings while remodeling a building. Medical and other expert testimony agreed that this is a germ infection of the brain through the blood stream, and that it is purely speculative whether or not the dust and impurities of the surroundings where the deceased was working were factors in starting the infection. There was no abrasion or other injury. In holding that the claimant had failed to establish the claim by a fair preponderance of the evidence, the Court said: "The Fund administered by the Compensation Bureau is collected from employers of labor and is to be husbanded by it in the manner directed by the Legislature for the benefit of workmen who receive injury in the courses of employment. It is not a general social insurance law justifying awards in cases of ordinary disease not arising in the course of the employment." (May, 1926.)

WORKMEN'S COMPENSATION DECISIONS

One engaged by village to collect and haul garbage, work being let on bids, held to be an employee and not independent contractor.—Schullo vs. Nashwauk, 207 N. W. 621 (Minn., 1926).

A compensation claimant's unjustified fear of operation for hernia, recommended by physician, is not reasonable ground for refusal to submit to operation, and compensation should be denied.—Palloni vs. Transit Co., 214 N. Y. Supp. 430 (N. Y., 1926).

An injury to employee while cranking automobile owned by him and preparatory to his driving to work, held not sustained in course of employment and not compensable, although he was employed because he owned the car and used it in the employer's business.—Grathwohl vs. Nassau, 214 N. Y. Supp. 496 (N. Y., 1926).

Compensation act does not authorize award in case of injury or death from a peril common to all mankind. Claimant's husband was killed by the falling of the building in which he was working, this building and a number of others being destroyed by a storm.—Gale vs. Krug Park Amusement Co., 207 N. W. 677 (Neb., 1926).

Workman engaged in cutting all trees of saw-log size on certain strip of land, for which he was to be paid at rate of 22 cents per log, was held to be an independent contractor and not an employee.—Kimberg vs. Murray, 207 N. W. 880 (Mich., 1926). Same holding under a similar state of facts in Dean vs. Johnson, 214 N. Y. Supp. 448 (N. Y., 1926).

Lightning causing death is an "Act of God," but where deceased was engaged in performance of duties subjecting him to greater hazard

than ordinarily applies to the general public, (in this case working with a steel shovel in close proximity to an underground pipe line), the injury is compensable.—U. S. Fidelity & Guaranty Co. vs. Rochester, 281 S. W. 306 (Texas, 1926).

Where pneumonia resulting in death occurred 81 days after employee cut his hand, which became infected, the burden was on claimant to establish by expert evidence that death resulted from such injury, and the statement of a physician who treated the injured person to the effect that he was not prepared to state that pneumonia from which employee died resulted from the injury but that such result was extremely possible held to be insufficient to prove connection between the injury and death.—Anderson vs. Baxter, 132 Atl. 358 (Penn., 1926).

Questions of fact and weight of evidence are for the Compensation Bureau to determine; and upon evidence showing that deceased was struck on the chest by a pole used as a lever; that no report of injury was made at the time, and deceased discharged for lack of work; that he died a week later; that the autopsy revealed no fracture, lungs in advanced stage of tuberculosis, diseased kidneys, and the direct cause of death was rupture of an aneurism of the aorta, probably of two years' duration and syphilitic in nature; the Bureau's finding that death was not the result of injury in the course of employment must be sustained.—Duarte vs. Industrial Commission, 243 Pac. 886 (Cal., 1926).

NEWS NOTES

Kansas has one hundred fifty fewer lawyers than it had three years ago.

The heroic statute of the late Chief Justice Edward Douglass White was recently unveiled at New Orleans.

A district bar association was recently organized at Minot by attorneys from the northwest counties of the state.

Frank J. Loesch of Chicago proposes novel reading as a remedy for the tendency of lawyers to separate justice from law by technicality.

A fund of \$500,000 has been completed through the instrumentality of the American Bankers Association to endow scholarships and research in economics in American colleges.

The American Bar Association has endorsed the constitutional amendment changing the beginning of the first session of a new congress to January following the election.

W. S. Heller, president of the National Shorthand Reporters' Association, asserts that attorneys speak an average of sixty-five words a minute faster than they did forty years ago.

Rome G. Brown of Minneapolis, Minnesota, long prominent at the Minnesota bar, died on May 21st. He was an authority on the law of waters and was one of the leaders in the American Bar Association in the fight against judicial recall.