

MAINE STATE LEGISLATURE

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EIGHTIETH LEGISLATURE

HOUSE

NO. 91

House of Representatives, Feb. 10, 1921.

Referred to Committee on Legal Affairs and Labor and 500
Copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Smith of Skowhegan.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND TWENTY-ONE

AN ACT to Amend Chapter Two Hundred and Thirty-eight
of the Public Laws of Nineteen Hundred and Nineteen
Relative to Workmen's Compensation.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Section four of said chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen, is hereby amended by striking out the words "or in
4 the work of cutting, hauling, rafting, or driving logs" in
5 the last line thereof, so that said section as amended shall
6 read as follows:

'Sect. 4. The provisions of section two shall not apply to
2 actions to recover damages for personal injuries or for death

3 resulting from personal injuries sustained by employees en-
4 gaged in domestic service or agriculture.'

Sect. 2. Section nine of said chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen, is hereby amended by striking out the last two sen-
4 tences in said section and by striking out the word "ten"
5 in the first sentence of said section, and inserting in its
6 place the word 'seven' and adding to said first sentence the
7 words 'unless incapacity exists at the expiration of the said
8 seven days, in which event compensation shall begin as of
9 the first day', so that said section as amended shall read as
10 follows:

'Sect. 9. No compensation except medical, surgical and
2 hospital services, nursing and medicines and mechanical
3 surgical aids as provided in section ten of this act, shall be
4 paid thereunder during the first seven days after the acci-
5 dent unless incapacity exists at the expiration of the said
6 seven days in which event compensation shall begin as of
7 the first day.'

Sect. 3. Section twelve of said chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen, is hereby amended by striking out the words "three-
4 fifths" in the fourth line of said section and inserting in
5 place thereof the words 'two-thirds', and by striking out the
6 word "fifteen" in the fifth line of said section and inserting
7 in place thereof the word 'twenty', and by striking out the
8 words "three thousand five hundred" in the seventh line

9 of said section and inserting in place thereof the words
10 'four thousand', so that said section as amended shall read
11 as follows:

'Sect. 12. If death results from the injury, the employer
2 shall pay the dependents of the employee, wholly dependent
3 upon his earnings for support at the time of his injury, a
4 weekly payment equal to two-thirds his average weekly
5 wages, earnings, or salary, but not more than twenty dol-
6 lars nor less than six dollars a week, for a period of three
7 hundred weeks from the date of the injury, and in no case
8 to exceed four thousand dollars, provided, however, that
9 if the dependent of the employee to whom the compensa-
10 tion shall be payable upon his death is the widow of such
11 employee, upon her death the compensation thereafter pay-
12 able under this act shall be paid to the child or children of
13 the deceased employee, including adopted and step-children,
14 under the age of eighteen years, or over said age but physi-
15 cally or mentally incapacitated from earning, who are de-
16 pendent upon the widow at the time of her death. In case
17 there is more than one child thus dependent, the compen-
18 sation shall be divided equally among them. If the em-
19 ployee leaves dependents only partly dependent upon his
20 earnings for support at the time of his injury, the employer
21 shall pay such dependents for a period of three hundred
22 weeks from the date of the injury, a weekly compensation
23 equal to the same proportion of the weekly payments herein
24 provided for the benefit of persons wholly dependent as the

25 amount contributed annually by the employee to such par-
26 tial dependents bears to the annual earnings of the deceased
27 at the time of injury. When weekly payments have been
28 made to an injured employee before his death the compen-
29 sation to dependents shall begin from the date of the last
30 of such payments, but shall not continue more than three
31 hundred weeks from the date of the injury. Provided, how-
32 ever, that if the deceased leaves no dependents at the time
33 of the injury the employer shall not be liable to pay com-
34 pensation under this act except as specifically provided in
35 the following section:’

Sect. 4. Section fourteen of said chapter two hundred
2 and thirty-eight of the public laws of nineteen hundred and
3 nineteen, is hereby amended by striking out the whole of
4 the same and inserting in its place a new section, which
5 said new section shall be numbered section fourteen, and
6 shall read as follows:

‘Sect. 14. While the incapacity for work resulting from
2 the injury is total, the employer shall pay the injured em-
3 ployee a weekly compensation equal to two-thirds his aver-
4 age weekly wages, earnings or salary, but not more than
5 twenty dollars nor less than six dollars a week; such com-
6 pensation, in case of permanent total incapacity for work,
7 to continue during the life of the employee, otherwise during
8 the continuance of such total incapacity. In case of the
9 death of an employee who has sustained an injury result-
10 ing in total incapacity for work, within a period of five

11 hundred weeks from the date of such incapacity, compen-
12 pensionation under the provisions of this section shall be pay-
13 able to the dependents of the said employee, for such period
14 and in such manner that the period covered by such com-
15 pensation to said employee and said dependents shall not
16 be greater than five hundred weeks, nor the aggregate
17 amount paid to said employee and his dependents greater
18 than five thousand dollars; and said dependents shall have
19 the same rights and powers under this act as the said em-
20 ployee would have had if he had lived. In the following
21 cases it shall, for the purposes of this act, be conclusively
22 presumed that the injury resulted in permanent total dis-
23 ability, to wit: the total and irrevocable loss of sight in both
24 eyes, the loss of both feet at or above the ankle, the loss
25 of both hands at or above the wrist, the loss of one hand
26 and one foot, an injury to the spine resulting in permanent
27 and complete paralysis of the legs or arms, and an injury
28 to the skull resulting in incurable imbecility or insanity.'

Sect. 5. Section fifteen of said chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen is hereby amended by striking out the words "three-
4 fifths" in the third line of said section and inserting in place
5 thereof the word 'two-thirds', and by striking out the word
6 "fifteen" in the sixth line of said section and inserting in
7 place thereof the word 'twenty', so that said section as
8 amended shall read as follows:

'Sect. 15. While the incapacity for work resulting from

2 the injury is partial, the employer shall pay the injured
3 employee a weekly compensation equal to two-thirds the
4 difference between his weekly wages, earnings or salary,
5 before the injury and the weekly wages, earnings or salary
6 which he is able to earn thereafter, but not more than twenty
7 dollars a week; and in no case shall the period covered by
8 such compensation be greater than three hundred weeks
9 from the date of the injury. The rate of wages before the
10 injury shall be determined by dividing the whole amount
11 of wages or salary earned by the injured employee during
12 the immediately preceding year, whether for the same em-
13 ployer or not, by the full number of days employed during
14 the same period, provided the injured employee has worked
15 substantially the whole of the immediately preceding year
16 at similar work. If the employee has not so worked, the
17 weekly wages, earnings or salary of an employee working
18 substantially the whole of such immediately preceding year
19 at similar work shall be used in determining the amount
20 of partial compensation due the injured employee.'

Sect. 6. Section sixteen of said chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen is hereby amended by striking out the words "three-
4 fifths" in each and every instance where the same are used
5 in said section, and inserting in place thereof in each of
6 said instances the words 'two-thirds', and by striking out
7 the word "fifteen" in the third line of the next to the last
8 paragraph of said section and inserting in place thereof the

9 word 'twenty', so that said section as amended shall read
10 as follows:

'Sect. 16. In cases included in the following schedule the
2 disability in each such case shall be deemed to be total for
3 the period specified and after such specified period, if there
4 be a partial incapacity for work resulting from the injury
5 specified, the employee shall receive compensation while
6 such partial incapacity continues under the provisions of
7 section fifteen, but in no case shall compensation continue
8 more than three hundred weeks after the injury. The com-
9 pensation to be paid for the injuries hereinafter specified
10 shall be as follows, to wit:

For the loss of a thumb, two-thirds the average weekly
2 wages during fifty weeks.

For the loss of the first finger, commonly called the index
2 finger, two-thirds the average weekly wages during thirty
3 weeks.

For the loss of the second finger, two-thirds the average
2 weekly wages during twenty-five weeks.

For the loss of the third finger, two-thirds the average
2 weekly wages during eighteen weeks.

For the loss of the fourth finger, commonly called the
2 little finger, two-thirds the average weekly wages during
3 fifteen weeks.

The loss of the first phalange of the thumb or of any finger,
2 shall be considered to be equal to the loss of one-half of
3 said thumb or finger and the compensation shall be one-half

4 the amount above specified. The loss of more than one
5 phalange shall be considered as the loss of the entire thumb
6 or finger; provided, however, that in no case shall the amount
7 received for the loss of more than one finger exceed the
8 amount specified in this schedule for the loss of a hand.

For the loss of a great toe, two-thirds the average weekly
2 wages during twenty-five weeks.

For the loss of one of the toes other than the great toe,
2 two-thirds the average weekly wages during ten weeks.

The loss of the first phalange of any toe shall be consid-
• 2 ered to be equal to the loss of one-half of said toe and the
3 compensation shall be one-half of the amount above specified.

The loss of more than one phalange shall be considered
2 as the loss of an entire toe.

For the loss of a hand, two-thirds the average weekly
2 wages during one hundred twenty-five weeks.

For the loss of an arm, or any part at or above the wrist,
2 two-thirds the average weekly wages during one hundred
3 fifty weeks.

For the loss of a leg, or any part at or above the ankle,
2 two-thirds the average weekly wages during one hundred
3 fifty weeks.

For the loss of a foot, two-thirds the average weekly wages
2 for one hundred twenty-five weeks.

For the loss of an eye or the reduction of the sight of an
2 eye with glasses, to one-tenth of the normal vision, two-
3 thirds the average weekly wages during one hundred weeks.

The amounts specified in this section are all subject to
2 the same limitations as to maximum and minimum amounts,
3 that is, of not more than twenty and not less than six dol-
4 lars a week, as provided for total or partial disability.

In all cases in this class where the usefulness of a member
2 or any physical function thereof is permanently impaired,
3 the compensation shall bear such relation to the amount
4 stated in the above schedule as the incapacity shall bear to
5 the injuries named in this schedule and the commission shall
6 determine the extent of the incapacity.'