

CHAPTER 389—H. F. No. 134

An act relating to the amount of benefits under the Workmen's Compensation Law; amending Minnesota Statutes 1941, Section 176.11, as amended by Laws 1943, Chapter 496, and Minnesota Statutes 1941, Section 176.12.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1941, Section 176.11, as amended by Laws 1943, Chapter 496, is amended to read as follows:

176.11. Schedule of compensation. Following is the schedule of compensation:

Subdivision 1. Temporary total disability. For injury producing temporary total disability, 66 $\frac{2}{3}$ per cent of the daily wage at the time of injury, subject to a maximum compensation of \$24.00 per week and a minimum of \$10.00 per week; provided, that if at the time of injury the employee receives wages of \$10.00 or less per week, he shall receive the full amount of such wages per week; this compensation shall be paid during the period of such disability, not beyond 300 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

Subd. 2. Temporary partial disability. In all cases of temporary partial disability the compensation shall be 66 $\frac{2}{3}$ per cent of the difference between the daily wage of the workman at the time of injury and the wage he is able to earn in his partially disabled condition; this compensation shall be paid during the period of such disability, not beyond 300 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to the maximum stated in *subdivision 1*; and, if the employer does not furnish the workman with work which he can do in his temporary partially disabled condition and, after a reasonably diligent effort, he is unable to procure such work with another employer, the commission may fix a rate of compensation to be paid to the workman during the period of such disability and unemployment, not beyond 300 weeks, which shall be based upon the percentage of his general physical disability as may be determined from competent medical testimony adduced at a hearing before a referee, a commissioner, or the commission.

Subd. 3. Permanent partial disability. For the permanent partial disability from the loss of a member the compensation during the healing period, but not exceeding 15 weeks, shall be 66 $\frac{2}{3}$ per cent of the difference between the

daily wage of the workman at the time of injury and the wages he is able to earn, if any, in his partially disabled condition, unless on application to the commission, made in the manner provided in Sec. 19 for additional medical service, the period is extended by the commission for not to exceed an additional 35 weeks; and thereafter and in addition thereto, compensation shall be that named in the following schedule:

(1) For the loss of a thumb, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 60 weeks;

(2) For the loss of a first finger, commonly called index finger, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 35 weeks;

(3) For the loss of a second finger, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 30 weeks;

(4) For the loss of a third finger, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 20 weeks;

(5) For the loss of a fourth finger, commonly called the little finger, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 15 weeks;

(6) The loss of the first phalange of the thumb, or of any finger, is considered equal to the loss of one-half of such thumb or finger, and compensation shall be paid at the prescribed rate during one-half the time specified for such thumb or finger;

(7) The loss of one and one-half or more phalanges is considered as the loss of the entire finger or thumb; provided, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

(8) For the loss of a great toe, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 30 weeks;

(9) For the loss of one of the toes, other than a great toe, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during ten weeks;

(10) The loss of the first phalange of any toe is considered equal to the loss of one-half of such toe, and compensation shall be paid at the prescribed rate during one-half the time specified for such toe;

(11) The loss of one and one-half or more phalanges is considered as the loss of the entire toe;

(12) For the loss of a hand, not including the wrist movement, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 150 weeks;

(13) For the loss of a hand, including the wrist movement; $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 175 weeks;

(14) For the loss of an arm, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 200 weeks;

(15) Amputation of the arm below the elbow is considered the loss of a hand, including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it is considered the loss of an arm;

(16) For the loss of a foot, not including the ankle movement, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 125 weeks;

(17) For the loss of a foot, including the ankle movement, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 150 weeks;

(18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 175 weeks;

(19) For the loss of a leg so close to the hip that no effective artificial member can be used, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 200 weeks;

(20) Amputation of the leg below the knee is considered the loss of a foot, including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member, otherwise it is considered the loss of a leg;

(21) For the loss of an eye, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 100 weeks;

(22) For the complete permanent loss of hearing in one ear, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 52 weeks;

(23) For the complete permanent loss of hearing in both ears, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 156 weeks;

(24) For the loss of an eye and a leg, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 350 weeks;

(25) For the loss of any eye and an arm, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 350 weeks;

(26) For the loss of an eye and a hand, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 325 weeks;

(27) For the loss of an eye and a foot, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 300 weeks;

(28) For the loss of two arms, other than at the shoulder, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(29) For the loss of two hands, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(30) For the loss of two legs, other than so close to the hips that no effective artificial member can be used, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(31) For the loss of two feet, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(32) For the loss of one arm and the other hand, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(33) For the loss of one hand and one foot, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(34) For the loss of one leg and the other foot, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(35) For the loss of one leg and one hand, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(36) For the loss of one arm and one foot, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(37) For the loss of one arm and one leg, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during 400 weeks;

(38) For serious disfigurement not resulting from the loss of a member of other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he was injured or other employment for which the employee is then qualified, $66\frac{2}{3}$ per cent of the daily wage at the time of injury during such period as the commission may determine, not beyond 75 weeks;

(39) Where an employee sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which entitles him to the largest amount of compensation, but this does not affect liability for serious disfigurement materially affecting the employability

of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in *subdivision 5*;

(40) In all cases of permanent partial disability it is considered that the permanent loss of the use of a member is equivalent to and draws the same compensation as the loss of that member, but the compensation in and by this schedule provided shall be in lieu of all other compensation in such cases, except as otherwise provided by this section;

In the event a workman has been awarded, or is entitled to receive, a compensation for loss of use of a member under any workmen's compensation law, and thereafter sustains a loss of such member under circumstances entitling him to compensation therefor under the Workmen's Compensation Act, as amended, the amount of compensation awarded, or that he is entitled to receive, for such loss of use, is to be deducted from the compensation due under the schedules of this section for the loss of such member, provided, that the amount of compensation due for the loss of the member caused by the subsequent accident is in no case less than 25 per cent of the compensation payable under the schedule of this section for the loss of such member;

(41) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of such member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the respective member which the extent of injury to the member bears to its total loss;

(42) All the compensations provided in this clause for loss of members or loss of the use of members are subject to the limitations as to maximum and minimum stated in *subdivision 1*;

(43) In addition to the compensation provided in this schedule for loss or loss of the use of a member, the compensation during the period of retraining for a new occupation, as certified by the division of re-education, operating under Laws 1919, Chapter 365, shall be $66\frac{2}{3}$ per cent of the daily wage at the time of the injury, not beyond 25 weeks, provided the injury is such as to entitle the workman to compensation for at least 75 weeks in the schedule of indemnities for permanent impairments, and provided the commission, on application thereto, finds that such retraining is necessary and makes an order for such compensation;

(44) In all cases of permanent partial disability not enumerated in this schedule, the compensation shall be $66\frac{2}{3}$ per cent of the difference between the daily wage of the workman at the time of the injury and the daily wage he is able to earn in his partially disabled condition, subject to a maximum of \$24.00 per week; and continue during disability, not beyond 300 weeks, and if the employer does not furnish the workman with work which he can do in his permanently partially disabled condition and, after a reasonably diligent effort, he is unable to procure such work with another employer, the commission may fix a rate of compensation to be paid to the workman during the period of his unemployment, not beyond 300 weeks, which is to be based upon the percentage of his general physical disability as determined from competent medical testimony adduced at a hearing before a referee, a commissioner, or the commission.

Subd. 4. Permanent total disability. For permanent total disability, as defined in *subdivision 5*, $66\frac{2}{3}$ per cent of the daily wage at the time of the injury, subject to a maximum compensation of \$24.00 per week and a minimum compensation of \$10.00 per week. If, at the time of the injury, the employee receives wages of \$10.00 or less per week, he shall receive the full amount of his wages per week. This compensation shall be paid during the permanent total disability of the injured person, but the total amount payable under this *subdivision* shall not exceed \$10.00 in any case, payments to be made at the intervals when the wage was payable as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of his confinement in such institution, unless he has wholly dependent on him for support some person named in *section 176.12, subdivisions 1, 2 or 3* (whose dependency shall be determined as if the employee were deceased), in which case the compensation provided for in *section 176.12*, during the period of such confinement, shall be paid for the benefit of persons so dependent during dependency.

Subd. 5. Permanent total disability. The total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties, or any other injury which totally incapacitates the employee from working at an occupation which brings him an income constitutes total disability.

Subd. 6. Previous payments deducted from benefit. In case a workman sustains an injury due to an accident arising out of and in the course of his employment, and during the period of disability caused thereby death results approximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of the death, and accrued compensation due to the deceased prior to his death, but not paid, is payable to such dependent persons or legal heirs as the commission may order without probate administration.

Subd. 7. Minors. If any employee entitled to the benefits of the workmen's compensation law is a minor or an apprentice of any age and sustains injuries due to an accident arising out of and in the course of his employment resulting in permanent total or permanent partial disability, the weekly earnings, for the purpose of computing the compensation to which he is entitled, shall be the weekly earnings which such minor or apprentice would probably earn after arriving at legal age or completing the apprenticeship, if uninjured, which probable earnings shall be approximately the average earnings of adult journeymen workmen of the same sex below the rank of superintendent or general foremen in the department of the plant or industry in which such minor or apprentice was employed at the time of his injury.

Sec. 2. Minnesota Statutes 1941, Section 176.12, is amended to read as follows:

176.12. **Dependents and allowances.** *Subdivision 1. Conclusive presumption of dependency.* For the purpose of this chapter, the following described persons shall be conclusively presumed to be wholly dependent: (a) wife, unless it be shown that she was voluntarily living apart from her husband at the time of his injury or death; (b) minor children under the age of 16 years;

Subd. 2. Certain children. Children between 16 and 18 years of age, or those over 18 if physically or mentally incapacitated from earning, shall, prima facie, be considered dependent;

Subd. 3. Persons wholly supported. Wife, child, husband, mother, father, grandmother, grandfather, grandchild, sister, brother, mother-in-law, father-in-law, who were wholly supported by the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his actual dependents, and payment of compensation shall be made to them in the order named;

Subd. 4. Partly supported. Any member of a class named in *subdivision 3*, who regularly derived part of his support from the wages of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his partial dependents, and payment of compensation shall be made to such dependents in the order named;

Subd. 5. To whom paid. In death cases, compensation payable to dependents shall be computed on the following basis, and shall be paid to the persons entitled thereto, or to a guardian or such other person as the industrial commission may direct, for the use and benefit of the person entitled thereto;

Subd. 6. Widow only. If the deceased employee leave a widow and no dependent child, there shall be paid to the widow 40 per cent of the daily wage at the time of the injury of the deceased;

Subd. 7. Spouse and one child. If the deceased employee leave a widow or widower and one dependent child, there shall be paid to the widow or widower for the benefit of herself or himself and such child, 50 per cent of the daily wage at the time of injury of the deceased;

Subd. 8. Spouse and two children: If the deceased employee leave a widow or widower and two dependent children, there shall be paid to the widow or widower for benefit of herself or himself and such children, 60 per cent of the daily wage at the time of injury of the deceased;

Subd. 9. Spouse and three or more children. If the deceased employee leave a widow or widower and three or more dependent children, there shall be paid to the widow or widower for the benefit of herself or himself and such children, $66\frac{2}{3}$ per cent of the daily wage at the time of injury of deceased;

Subd. 10. Allocation of compensation. In all cases where compensation is payable to the widow or widower for the benefit of herself or himself and dependent child or children, the industrial commission shall have power to determine, in its discretion, what portion of the compensation shall be applied for the benefit of any such child or children and may order the same paid to a guardian;

Subd. 11. Remarriage of widow. In the case of remarriage of a widow without dependent children she shall receive a lump sum settlement equal to one-half of the amount of the compensation remaining unpaid, without deduction for interest, but not to exceed two full years' compensation. In case

of remarriage of a widow who has dependent children the unpaid balance of compensation which would otherwise become her due shall be payable to the mother, guardian, or such other person as the industrial commission may order, for the use and benefit of such children during dependency; provided, that if the dependency of the children ceases before the equivalent of two years of the mother's compensation has been paid to the children, the remainder of the two years' compensation shall be payable in a lump sum to the mother without deduction for interest. The payments as provided herein shall be paid within 60 days after written notice to the employer of such remarriage or that the dependency of children has ceased; provided, that no widow who remarried shall be held to be a widow without dependent children when the deceased employee leaves a dependent child or children as defined by Section 176.01, subdivision 3;

Subd. 12. Orphans. If the deceased employee leave a dependent orphan, there shall be paid 45 per cent of the daily wage at the time of injury of the deceased, with ten per cent additional for each additional orphan, with a maximum of $66\frac{2}{3}$ per cent of such wages;

Subd. 13. Husband and no child. If the deceased employee leave a dependent husband and no dependent child, there shall be paid to the husband 30 per cent of the daily wage at the time of injury of the deceased;

Subd. 14. Parents. If the deceased employee leave no widow or child or husband entitled to any payment hereunder, but leaves both parents wholly dependent on deceased, there shall be paid to such parents jointly 45 per cent of the weekly wage at the time of the injury of the deceased; provided, that in case of the death of either of the wholly dependent parents the survivor shall receive 35 per cent of the weekly wage thereafter; if the deceased employee leave one parent wholly dependent on the deceased, there shall be paid to such parent 35 per cent of the weekly wage at the time of injury of the deceased; provided, that the compensation payable under this paragraph shall not exceed the actual contributions made by the deceased to the support of such parent or parents, for a reasonable time immediately prior to the injury which caused the death of the dependent;

Subd. 15. Remote dependents. If the deceased should leave no widow or child or husband or parent entitled to any payment hereunder, but should leave a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on him for support, there shall be paid to such de-

pendent, if but one, 30 per cent of the daily wage at the time of injury of the deceased, or if more than one, 35 per cent of the daily wage at the time of injury of the deceased, divided between or among them share and share alike;

Subd. 16. Cessation of payments. Compensation shall cease upon the death or marriage of such dependent, unless otherwise provided herein;

Subd. 17. Partial dependents. Partial dependents shall be entitled to receive only that portion of the benefits provided for actual dependents which the average amount of wages regularly contributed by the deceased to such partial dependents at the time of, and for a reasonable time immediately prior to, the injury, bore to the total income of the dependent during the same time;

Subd. 18. Burial benefit. In all cases where death results to an employee caused by accident arising out of and in the course of employment, the employer shall pay, in addition to the expenses provided for in section 176.15, the expense of burial, not exceeding in amount \$250; in case any dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be determined and approved by the industrial commission before payment, after such reasonable notice to interested parties as the commission shall require; if the deceased leave no dependents, no compensation shall be payable except as provided by this *subdivision* or section 176.13;

Subd. 19. Compensation; rate; limitation. The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of \$24.00 per week and a minimum of \$10.00 per week; provided, that if at the time of injury the employee receives wages of \$10.00 or less per week, then the compensation shall be the full amount of such wages per week; the compensation payable to partial dependents shall be subject to a maximum of \$24.00 per week and a minimum of \$10.00 per week; provided, that if the income loss of the said partial dependents by such death is \$10.00 or less per week, then the dependents shall receive the full amount of their income loss; this compensation shall be paid during dependency, but shall not exceed \$7,500 in case of a dependent wife, child, children, or orphan, and shall not exceed 300 weeks in case of any other dependent, payments to be made at the intervals when the wage was payable, as nearly as may be;

Subd. 20. Order of payment. Actual dependents shall be entitled to take compensation in the order named in *subdivi-*

sion 3 above, during dependency, until 66 $\frac{2}{3}$ per cent of the daily wage of the deceased at the time of injury shall have been exhausted; provided, that such compensation shall not exceed \$7,500 in case of a dependent wife, child, children, or orphan, or continue beyond 300 weeks in case of any other dependent; but the total compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate \$24.00 per week.

Approved April 18, 1945.

CHAPTER 390—H. F. No. 240

An act relating to teachers retirement fund associations; and to amend Minnesota Statutes 1941, Sections 135.23 and 135.24.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1941, Section 135.23, is amended to read as follows:

135.23. Contribution by teachers; taxation. *The plan shall include a provision that only such teachers as make a contribution to the fund, as provided in the plan, shall be entitled to the benefits thereof, and may include a provision that a portion of the fund shall be raised by taxation upon the property of the city, it being understood that all teachers who are willing to comply with the terms and conditions of the articles of association and by-laws of the association shall be entitled to participate in the benefits of the fund.*

In any city of the first class where no automatic or compulsory retirement plan affecting such teachers has been established, every teacher coming within the provisions of this act who shall have attained the age of 70 years as of June 30, 1942, and any teacher who shall have attained the age of 69 years as of June 30, 1943, and any teacher who shall have attained the age of 68 years as of June 30, 1944, and thereafter any teacher who shall have attained the age of 68 as of June 30 of any year, shall be automatically retired and severed from the service in the respective school system.

In any city of the first class, the plan, subject to the approval of the city council of such city, may provide that any member applying for an annuity shall be entitled to an annuity