

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



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1918

Death in another state—What laws govern—An action for death occurring in another state is governed by the laws of that state (124-195, 144-942). Death, ☞8.

Concurrent negligence—Joinder of actions—Causes of action for concurrent negligence of two defendants, resulting in wrongful death, may be joined, where the facts concerning the negligence are identical as to time, place, and result (124-531, 144-474). Parties, ☞27.

Liability of administrator's bondsmen—A surety on an administrator's bond executed under § 7416 is liable for the proceeds of the settlement of an action brought under this section (123-165, 143-255). Executors and Administrators, ☞528(1).

8182. Heirs and devisees—When liable—

An action may be maintained under this act without first presenting the claim to the probate court, where the sole property inherited by defendants is a homestead, and the debt is for labor performed by a servant which is excepted by Const. art. 1 § 12, from the operation of the homestead exemption statute, there having been no order limiting the time for filing claims in the probate court, and § 7320 providing that such order need not be made where the only property of the estate is a homestead (161-413). Descent and Distribution, ☞140.

CHAPTER 84A

WORKMEN'S COMPENSATION

PART 1

8195. Injury or death of employé—Liability of employer—Compensation by action at law—Modification of remedies—

126-286, 148-71, L. R. A. 1916D, 412; note under § 8202.

Construction and application—This act is remedial, and must be given a liberal construction (128-43, 150-211; 131-352, 155-103). Master and Servant, ☞348.

An injury may be received in the course of the employment, and still have no causal connection with it, so that it can be said to arise out of the employment (129-176, 151-912). Master and Servant, ☞371.

A teamster, while driving his employer's team on a street in the discharge of his duties, and who was killed by the falling of iron beams being hoisted to the top of a building in course of construction, is subject to this act, the accident being one arising out of and in the course of his employment (134-113, 158-913). Master and Servant, ☞354, 375(1).

A student elevator operator, though not possessing a license under § 1432, was an employé within the compensation act at the time of his injury, which occurred two weeks after he started with his employment, and while he was operating the elevator alone during the absence of his instructor (133-109, 157-995). Evidence, ☞67(1); Master and Servant, ☞361, 366, 405(2).

Injury to a bartender caused by being struck by a glass hurled by a patron of the saloon, who was so drunk that he did not know the nature of his act was one arising out of the employment of the bartender, so as to entitle him to compensation (134-16, 158-713, L. R. A. 1916F, 957). Master and Servant, ☞373.

A workman employed in this state, while working in Wisconsin, where he receives an injury, is subject to the compensation act of Wisconsin, the provisions of which had been accepted by the employer (128-158, 150-620). Master and Servant, ☞86.

Constitutionality—This act is not unconstitutional, in that it deprives the parties of a jury trial, that it deprives the employer of his property without due process of law, that it encroaches on the judiciary, or that it impairs the obligation of contracts of employment entered into before the act took effect (128-221, 150-623). Constitutional Law, ☞80(1). 146, 301, 329.

The workmen's compensation act of Wisconsin held not unconstitutional (128-158, 150-620).

Evidence—Evidence held to sustain findings that death of an employé stricken with paralysis while wheeling wheelbarrow, was caused by rupture of a blood vessel caused by his muscular strain and exertion (162-678). Master and Servant, ☞405(4).

Where a boy of 17 in previous good health dropped dead at the moment of contact with an electric wire while he was working on a wet cement floor, the circumstances sustained a finding of an accidental and not a natural death (134-324, 159-755). Master and Servant, ☞405(4).

Evidence as to intoxication of an employé at the time of an accident held to present a question of fact, the finding on which was conclusive on the appellate court (128-221, 150-623).

Bar to recovery—An action by the representatives of a deceased employé against the master for wrongful death, in which judgment for defendant was rendered on a demurrer to the complaint, for the reason that plaintiff's remedy was under this act, does not involve

Death in another state—What laws govern—An action for death occurring in another state is governed by the laws of that state (124-195, 144+942). Death, [§ 8](#).

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A workman employed in this state, while working in Wisconsin, where he receives an injury, is subject to the compensation act of Wisconsin, the provisions of which had been accepted by the employer (128-158, 150+620). Master and Servant, [§ 86](#).

Constitutionality—This act is not unconstitutional, in that it deprives the parties of a jury trial, that it deprives the employer of his property without due process of law, that it encroaches on the judiciary, or that it impairs the obligation of contracts of employment entered into before the act took effect (128-221, 150+623). Constitutional Law, [§ 80\(1\)](#), 146, 301, 329.

The workmen's compensation act of Wisconsin held not unconstitutional (128-158, 150+620).

Evidence—Evidence held to sustain findings that death of an employé stricken with paralysis while wheeling wheelbarrow, was caused by rupture of a blood vessel caused by his muscular strain and exertion (162+678). Master and Servant, [§ 405\(4\)](#).

Where a boy of 17 in previous good health dropped dead at the moment of contact with an electric wire while he was working on a wet cement floor, the circumstances sustained a finding of an accidental and not a natural death (134-324, 159+755). Master and Servant, [§ 405\(4\)](#).

Evidence as to intoxication of an employé at the time of an accident held to present a question of fact, the finding on which was conclusive on the appellate court (128-221, 150+623).

Bar to recovery—An action by the representatives of a deceased employé against the master for wrongful death, in which judgment for defendant was rendered on a demurrer to the complaint, for the reason that plaintiff's remedy was under this act, does not involve

the same issues as are presented by a proceeding under this act, and the judgment is not res judicata or a bar to the compensation proceedings (161+388). Judgment, [§572\(2\)](#).

[8195—]1. Amendment to title of act—The title of Chapter 467, G. L. 1913 [8195-8230] is hereby amended to read as follows:

An Act prescribing the liability of an employer to make compensation by way of damages for injuries due to accident received by an employé arising out of and in the course of employment, modifying common law and statutory remedies, in such cases; establishing an alternative elective schedule of compensation, regulating procedure for the determination of liability and compensation thereunder in certain cases, and prescribing penalties for the violation thereof. ('15 c. 209 § 1)

PART 2. ELECTIVE COMPENSATION

8202. Not applicable to certain employments—This Act shall not be construed or held to apply to any common carrier by steam railroad, domestic servants, farm laborers or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession or occupation of his employer. (Amended '15 c. 193 § 1)

Construction and application—This act is general in its terms, and applies to all cases within the territorial jurisdiction of the state save those expressly excepted. Those arising from interstate commerce by water are not excepted; and the territorial sovereignty of the state extends to a vessel of the state, though it is upon navigable waters (132-328, 156+669, L. R. A. 1916D, 935). States, [§12\(1\)](#).

Casual employment and usual course of business—An employé of a city injured while loading gravel used by the city for repairing its streets was entitled to compensation under the act, though the employment was casual; the work being in the usual course of the city's business (131-352, 155+103). Master and Servant, [§362](#).

Where a servant was injured while returning from a business trip for his employer by the usually traveled way, he was within the scope of his employment, though he had deviated from such course while going to the place to which he was sent. Evidence held to support a finding that decedent was in the employ of defendant at the time of the accident, though he had resigned on the preceding day (128-221, 150+623). Master and Servant, [§375\(1\)](#).

Constitutionality—This act, in its application to a state vessel on navigable waters is not invalid as an interference with interstate commerce, since Congress has not legislated on the subject (132-328, 156+669, L. R. A. 1916D, 935). Commerce, [§8\(8\)](#).

By virtue of § 9 of the federal judiciary act, saving to suitors the right of a common-law remedy, a person injured on a state vessel in a navigable water may either proceed in admiralty in the federal courts, or by action in personam in the state courts; and it is within the power of the state to modify its common-law rules of liability; and hence the workmen's compensation act is applicable to such case, and, as so applied, is not an interference with interstate commerce (132-328, 156+669, L. R. A. 1916D, 935). Master and Servant, [§347](#).

The excluding of certain classes of employés does not render the act unconstitutional, as class legislation, and the placing of employers who accept the provisions of the act within the operation of part 2, while those who do not accept are not given the benefit thereof, does not render the act invalid (126-286, 148+71, L. R. A. 1916D, 412). Constitutional Law, [§208\(7\)](#).

8203. Agreement to be subject to provisions of part 2—

126-286, 148+71, L. R. A. 1916D, 412; note under § 8202.

The driver of an ice wagon, required to deliver ice at all times irrespective of weather conditions, who was killed by lightning which struck a tree toward which he was walking to seek protection from a downpour of rain, or in the performance of his work of soliciting orders, suffered an accident "arising out of" his employment within this section (129-502, 153+119, L. R. A. 1916A, 344). Master and Servant, [§375\(1\)](#).

An employé's death from rupture of blood vessel due to muscular strain and exertion was an accident arising out of and in the course of his employment within this section (162+678). Master and Servant, [§376\(1\)](#).

8204. Surrender of other rights—

A settlement by which the employer is released does not operate as a release of any claim for malpractice which the employé might have against the physician who treated him (132-128, 155+1077, L. R. A. 1916D, 644). Master and Servant, [§354](#).

8205. Presumption as to acceptance of provisions of part 2—Election not to accept—Notices—

An employé accepts the provisions of the act until he makes an election not to accept it (127-399, 149+662). Master and Servant, [§369](#).

That a corporation employer was designated by various names, and not by its true name, by the witnesses on the trial of an action against a third person for wrongful death of the employé, held not sufficient to overcome the presumption raised by this section that the de-

ceased and his employer were subject to the workmen's compensation act (134-113, 158+913). Master and Servant, ~~§~~403, 405(3).

An employé who fails to give the notice of nonacceptance must be deemed to be subject to the act. So held in an action under the Wisconsin compensation act (128-158, 150+620). Master and Servant, ~~§~~358.

A workman, injured in Wisconsin, held not permitted to plead ignorance of the compensation act of that state to avoid its operation in his case (128-158, 150+620). Master and Servant, ~~§~~369.

8206. Termination of acceptance of election—Notice—Agreement—Either party may terminate his acceptance, or his election not to accept of the provisions of Part 2 by thirty (30) days' written notice to the other, such notice to be given as provided in Section 11 [8205]. A duplicate of such notice with proof of service attached thereto shall be filed with the labor commissioner and the time shall not begin to run until the notice is so filed. ('13 c. 467 § 12, amended '15 c. 209 § 2)

Under the proviso of this section, an employé's election, made within 30 days after October 1st, is effective at once, notwithstanding the clauses of this section and § 8205 relative to 30 days' notice; and an employé injured on October 15, 1913, perfecting his election not to be bound by the act on October 29, 1913, is, until that date, bound by the act, and cannot maintain a common-law action for his injury (127-399, 149+662). Master and Servant, ~~§~~359.

[8206—]1. **Minors—**Minors who are permitted to work by the laws of this state shall, for the purposes of Part 2 of this act, have the same power to contract, make election of remedy, make settlements, and receive compensation as adult employés; subject, however, to the power of the court, in its discretion, at any time to require the appointment of a guardian to make such settlement and to receive moneys thereunder or under an award. ('13 c. 467, amended '15 c. 209 § 3)

1915 c. 209 § 3 adds a new section to 1913 c. 467, to be known as section 12A, as above set forth.

8207. Schedule of compensation—Following is the schedule of compensation; (a) For injury producing temporary total disability sixty per centum of the wages received at the time of the injury, subject to a maximum compensation of twelve (\$12.00) dollars per week and a minimum of six and one-half (\$6.50) dollars per week; provided, that if at the time of injury the employé receives wages of less than six and one-half (\$6.50) dollars per week, then he shall receive the full amount of such wages per week. This compensation shall be paid during the period of such disability, not, however, beyond three hundred weeks. Payments to be made at the intervals when the wage was payable, as nearly as may be.

(b) In all cases of temporary partial disability the compensation shall be sixty per cent of the difference between the wage of the workman at the time of the 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, however, beyond three hundred weeks, payment to be made at the intervals when the wage was payable as nearly as may be and subject to the same maximum as stated in clause (a).

(c) For the permanent partial disability, the compensation shall be based upon the extent of such disability. In cases included by the following schedule the compensation shall be that named in the schedule, to-wit:

For the loss of a thumb, sixty per centum of daily wages during sixty (60) weeks.

For the loss of a first finger, commonly called index finger, sixty per centum of daily wages during thirty-five (35) weeks.

For the loss of a second finger, sixty per centum of daily wages during thirty (30) weeks.

For the loss of a third finger, sixty per centum of daily wages during twenty (20) weeks.

For the loss of a fourth finger, commonly called little finger, sixty per centum of daily wages during fifteen (15) weeks.

For the loss of the first phalange of the thumb, or of any finger, shall be considered equal to the loss of one-half of such thumb, or finger, and com-

pensation shall be paid at the prescribed rate during one-half the time specified above for such thumb or finger.

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb; provided, however, 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.

For the loss of a great toe, sixty per centum of daily wages during thirty (30) weeks.

For the loss of one of the toes other than a great toe, sixty per centum of daily wages during ten (10) weeks.

The loss of the first phalange of any toe shall be considered to be 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 above for such toe.

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

For the loss of a hand, sixty per centum of daily wages during one hundred and fifty (150) weeks.

For the loss of an arm, fifty per centum of daily wages during two hundred (200) weeks.

For the loss of a foot, sixty per centum of daily wages during one hundred and twenty-five (125) weeks.

For the loss of a leg, sixty per centum of daily wages during one hundred and seventy-five (175) weeks.

For the loss of an eye, sixty per centum of daily wages during one hundred (100) weeks.

For the complete permanent loss of hearing in both ears, sixty per centum of daily wages during one hundred and fifty-six (156) weeks.

For the loss of an eye and a leg, sixty per centum of daily wages during three hundred and fifty (350) weeks.

For the loss of an eye and an arm, sixty per centum of daily wages during three hundred and fifty (350) weeks.

For the loss of an eye and a hand, sixty per centum of daily wages during three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, sixty per centum of daily wages during three hundred (300) weeks.

For the loss of two arms other than at the shoulder, sixty per centum of daily wages during four hundred (400) weeks.

For the loss of two hands, sixty per centum of daily wages during four hundred (400) weeks.

For the loss of two legs, sixty per centum of daily wages during four hundred (400) weeks.

For the loss of two feet sixty per centum of daily wages during four hundred (400) weeks.

For the loss of one arm and the other hand, sixty per centum of the daily wages during four hundred (400) weeks.

For the loss of one hand and one foot, sixty per centum of the daily wages during four hundred (400) weeks.

For the loss of one leg and the other foot, sixty per centum of the daily wages during four hundred (400) weeks.

For the loss of one leg and one hand, sixty per centum of the daily wages during four hundred (400) weeks.

For the loss of one arm and one foot, sixty per centum of the daily wages during four hundred (400) weeks.

For the loss of one arm and one leg, sixty per centum of the daily wages during four hundred (400) weeks.

Where an employee sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which produced the longest period of disability; but this section shall not affect liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in sub-section (e) below.

In all cases of permanent partial disability, it shall be considered that the

permanent loss of the use of member shall be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided, shall be in lieu of all other compensation in such cases.

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.

All compensations provided in clause (c) of this section for loss of members, or loss of use of members are subject to the same limitations as to maximum and minimum as are stated in clause (a).

In all other cases of permanent partial disability not above enumerated the compensation shall be sixty per centum of the difference between the wage of the workman at the time of the injury and the wage he is able to earn in his partially disabled condition, subject to a maximum of twelve dollars (\$12.00) per week. Compensation shall continue during disability not, however, beyond three hundred (300) weeks.

(d) For permanent total disability as defined in sub-section (e), below, sixty per centum of the wages received at the time of the injury, subject to a maximum compensation of twelve (\$12.00) dollars per week and a minimum compensation of six and one-half (\$6.50) dollars per week, provided, that if at the time of injury the employee was receiving wages of less than six and one-half (\$6.50) dollars per week, then he shall receive the full amount of his wages per week. This compensation shall be paid during such permanent total disability, not exceeding five hundred and fifty (550) weeks; but in all such cases drawing more compensation than six and one-half (\$6.50) dollars per week, the payments after the first four hundred (400) weeks, shall be reduced to six and one-half (\$6.50) dollars per week for the remainder for the five hundred and fifty (550) weeks, while the permanent total disability continues; payment to be made at the intervals when the wage was payable as nearly as may be. The total amount of compensation payable under this sub-section shall not exceed five thousand (\$5,000) dollars in any case. Provided, however, that in case an employee who is permanently and totally disabled, becomes an inmate of a public institution, then no compensation shall be payable unless he has wholly dependent on him for support a person or persons named in sub-sections (1), (2), and (3), of section 14, (whose dependency shall be determined as if the employee were deceased); in which case the compensation provided for in this sub-section shall be paid for the benefit of said persons so dependent, during dependency, in such institution.

(e) The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder, or complete and permanent paralysis, or 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, shall constitute total disability.

(f) In case a workman sustains an injury due to accident arising out of and in the course of his employment, and during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of death. (Amended '15 c. 209 § 4; '17 c. 351 § 1)

What laws govern—As to a death occurring prior to the enactment of the amendment by 1915 c. 209, the prior law governs (132-249, 156+120). Master and Servant, [§349](#).

Amount, how ascertained—The percentage of compensation is to be based on the salary of the employé which he actually receives, and it was improper to include as a part of such salary an amount paid to the employé by the employer to secure the services of an assistant (128-486, 151+182). Master and Servant, [§384](#).

Several distinct injuries—Where employé suffers two distinct injuries, each entitling him to compensation under workmen's compensation act, payments should not run concurrently, when aggregate will exceed maximum weekly allowance prescribed by cl. (a) of this section, but should be made separately, one following the other (162+527). Master and Servant, [§385\(1\)](#).

Subd. (a)—Evidence held not to sustain a finding that claimant was totally disabled at the time of the hearing of his application for compensation (129-423, 152+838). Master and Servant, [§385\(15\)](#).

Subd. (c)—Employé, who had lost an eye prior to his employment, was entitled only to compensation as for permanent partial disability on loss of the other eye in the course of his employment (129-156, 151+910). Master and Servant, ~~385~~(9).

Where an employé's arm is injured, both above and below the elbow, it is improper to divide the injuries into two units, those of the hand and those of the arm, and award compensation for each (129-91, 151+530). Master and Servant, ~~385~~(2).

A fracture of the right heel bone, resulting in some difficulty and pain in walking, and a deformed condition of the foot, was a "permanent partial disability" under this section, as amended by 1915 c. 209, but was not the loss of a foot or a permanent loss of the use of such member, and allowance of compensation on the theory of the latter element was improper (161+391). Master and Servant, ~~385~~(14).

Subd. (d)—Injuries resulting in the total destruction of sight in the right eye, an impairment of vision to the extent of 95 per cent. in the left eye, which, however, with the aid of glasses, could, as to the left eye, be increased to about one-third normal, and other injuries which affected the head, so that claimant could not stoop or bend over without pain, warranted a finding of permanent total disability (133-439, 158+700). Master and Servant, ~~405~~(6).

Subd. (e)—Subd. (e) does not purport to set forth every injury which shall constitute permanent total disability (133-439, 158+700). Master and Servant, ~~405~~(6).

8208. Dependents and allowances—(1) Wife and children conclusively presumed wholly dependent—when, for the purposes of this act, 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 sixteen years.

(2) Prima facie presumption as to certain children—Children between sixteen and eighteen years of age, or those over eighteen, if physically or mentally incapacitated from earning, shall, prima facie, be considered dependent.

(3) Actual dependents, Wife, child, husband, mother, father, grandmother, grandfather, sister, brother, mother-in-law and 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.

(3A) Partial dependents. 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 dependent, and payment of compensation shall be made to such dependents in the order named.

(4) In death cases, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto, without administration.

(5) If the deceased employé leave a widow and no dependent child, there shall be paid to the widow, thirty-five per centum of the monthly wages of deceased.

(6) If the deceased employé leave a widow and one dependent child, there shall be paid to the widow for the benefit of herself and such child forty-five per centum of the monthly wages of deceased.

(7) If the deceased employé leave a widow and either two or three dependent children, there shall be paid to the widow for the benefit of herself and such children, fifty-five per centum of the monthly wages of deceased.

(8) If the deceased employé leave a widow and four or more dependent children, there shall be paid to the widow for the benefit of herself and such children, sixty per centum of the monthly wages of the deceased.

(8A) In all cases where compensation is payable to a widow for the benefit of herself and dependent child or children, the court 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.

(9) In case of re-marriage of a widow without children, she shall receive a lump sum settlement equal to one-half of the amount of the compensation remaining unpaid. This sum shall be paid to her within sixty (60) days after written notice to the employer of such re-marriage. In case of re-marriage

of a widow who has dependent children, the unpaid balance of compensation which would otherwise become due to her, shall be paid to such children.

(10) If the deceased employé leave a dependent orphan, there shall be paid forty per centum of the monthly wages of deceased, with ten per centum additional for each additional orphan with a maximum of sixty per centum of such wages.

(11) If the deceased employé leave a dependent husband and no dependent child, there shall be paid to the husband twenty-five per centum of the monthly wages of deceased.

(12) If the deceased employé leave no widow or child or husband entitled to any payment hereunder, but should leave a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one parent, thirty per centum of the monthly wages of the deceased, and if both parents, forty per centum of the monthly wages of the deceased to such parent or parents.

(13) If the deceased leave no widow or dependent child or husband or parent entitled to any payment hereunder, but leaves a grandparent, brother, sister, mother-in-law or father-in-law wholly dependent on him for support, there shall be paid to such dependent, if but one, twenty-five per centum of the monthly wages of the deceased, or if more than one, thirty per centum of the monthly wages of the deceased, divided between or among them share and share alike.

(14) If compensation is being paid under Part 2 of this act to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided herein.

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

(16) In all cases where death results to an employé caused by accident arising out of and in the course of employment, the employer shall pay in addition to the medical and hospital expenses provided for in Section 18, the expense of last sickness and burial, not exceeding in amount one hundred (\$100.00) dollars, except, in cases where an insurer of the deceased or a benefit association is liable therefor, or for a part thereof; in which case the employer shall not be required to pay any part of such expense, for which such insurer or a benefit association is liable unless such non-payment by the employer would diminish the benefits received by the dependents of the deceased from any such insurer or benefit association. In case any dispute arises as to the reasonable value of the services rendered in connection with the last sickness and burial, the same shall be approved by the court before payment, after such reasonable notice to interested parties as the court shall require. If the deceased leave no dependents no compensation shall be payable except as provided by this subsection.

(17) **Death compensation**—The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of eleven (\$11.00) dollars per week and a minimum of six and one-half (\$6.50) dollars per week; provided that if at the time of injury the employé receives wages of less than six and one-half (\$6.50) dollars 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 eleven (\$11.00) dollars per week and a minimum of six and one-half (\$6.50) dollars per week; provided that if the income loss of the said partial dependents by such death is less than six and one-half (\$6.50) dollars per week, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding three hundred (300) weeks, payments to be made at the intervals when the wage was payable as nearly as may be.

(18) In computing and paying compensation to orphans or other children, in all cases, only those under eighteen years of age, or those over eighteen

years of age who are physically or mentally incapacitated from earning, shall be included; the former to receive compensation only during the time they are under eighteen, the latter only for the time they are so incapacitated, within the period of three hundred (300) weeks.

(19) Actual dependents shall be entitled to take compensation in the order named in subsection (3) above, until fifty per centum of the monthly wages of the deceased during the time specified in subsection (17) shall have been exhausted; but the total compensation to be paid to all actual dependents of a deceased employé, shall not exceed in the aggregate eleven (\$11.00) dollars per week. ('13 c. 467 § 14, amended '15 c. 209 § 5)

128-486, 151+182; note under § 8207.

Nature of proceeding—The right of action to recover compensation for the death of an employé, given by this section, as amended by 1915 c. 209, is a new and distinct right of action created by the death (131-96, 154+661). Master and Servant, [§346](#).

Subd. 1—134-131, 158+798; note under § 8208(3), post.

Subd. 2—134-131, 158+798; note under § 8208(3), post.

In determining compensation, it is immaterial that the dependent inherited from the estate of the employé. A widowed mother, without means, who is supported by her son, partly by his wages and partly by the yield of his land, is wholly dependent within this subdivision (131-27, 154+509). Master and Servant, [§388](#).

Subd. 3—Cited (131-27, 154+509).

A widowed daughter, 30 years of age, though not physically or mentally incapacitated from earning money, deriving part of her support from her father is a partial dependent, and entitled to compensation, in view of the addition of the word "child" in the act as amended, notwithstanding the provisions of subds. 1, 2, and 18 of this section, and of subd. (c) of § 8230, post (134-131, 158+798). Master and Servant, [§388](#).

Evidence held to warrant a finding of partial dependency (132-249, 156+120). Master and Servant, [§388](#).

Where a boy of 17 earned \$7.50 per week, and gave it all to his parents, and lived with them, receiving his lodging, board, and clothing, and there was no other family income, except that his father earned \$18 a week, the family consisting of the parents, the boy, and three sisters, the parents were partially dependent upon such boy, under this subdivision prior to its amendment in 1915 (134-324, 159+755). Master and Servant, [§405\(5\)](#).

A statement by the father, one of the partial dependents of a deceased son, that the son's wages were not enough to pay his board and clothing, was not conclusive of the rights of the partial dependents, where such statement was inconsistent with the other testimony (134-324, 159+755). Master and Servant, [§405\(6\)](#).

Subd. 3A—134-131, 158+798; note under § 8208(3), ante.

Subd. 9—This subdivision has no application to and does not include a child adopted by the widow after her husband's death (133-265, 158+250). Master and Servant, [§388](#).

Subd. 12—Parents of decedent held, under the evidence, "wholly dependent" upon decedent for their support (128-338, 151+123). Master and Servant, [§388](#).

The minimum compensation to a person wholly dependent on the deceased employé is \$6 a week for 300 weeks (131-27, 154+509). Master and Servant, [§386\(1\)](#).

Subd. 13—A partially dependent sister of a deceased workman is entitled to the minimum fixed by subd. 17 (132-249, 156+120). Master and Servant, [§386\(1\)](#).

Subd. 15—The monthly contributions of a workman to his mother should be considered as a part of her "total income" in determining the amount she is entitled to receive as a partial dependent (133-454, 158+792). Master and Servant, [§386\(1\)](#).

A partially dependent sister of a deceased workman is entitled to the minimum fixed by subd. 17 (132-249, 156+120). Master and Servant, [§386\(1\)](#).

Subd. 17—Construing this subdivision with subd. 12, the minimum compensation to a person wholly dependent on the deceased employé is \$6 a week for 300 weeks (131-27, 154+509). Master and Servant, [§386\(1\)](#).

1915 c. 209, amending this section, does not apply to a death caused before the amendment took effect (132-249, 156+120). Master and Servant, [§348](#).

A partially dependent sister of a deceased workman is entitled to the minimum fixed by this subdivision (132-249, 156+120). Master and Servant, [§386\(1\)](#).

As to a death occurring prior to the amendment of 1915, the minimum compensation of \$6 per week applies, and not \$6.50, the minimum fixed by the amendatory act (134-324, 159+755). Master and Servant, [§386\(1\)](#).

8209. Injury increasing disability—

Where an employé, who had previously lost the sight of one eye, lost the other eye by accidental means entitling him to compensation, the employer was liable only for permanent partial disability (129-156, 151+910). Master and Servant, [§385\(9\)](#).

8211. Waiting period—In cases of temporary total or temporary partial disability no compensation shall be allowed for the first week after the injury was received, except as provided by section 18 [8212], nor in any case unless

the employer has actual knowledge of the injury or is notified thereof within the period specified in section 19 [8213]. (Amended '15 c. 209 § 6; '17 c. 302 § 1)

The monthly contributions of a workman to his mother should be considered as a part of her "total income" in determining the amount she is entitled to recover as a partial dependent (133-454, 158+792). Master and Servant, ~~386~~(1).

8212. Medical, and surgical treatment and supplies, etc.—Such medical and surgical treatment, medicine, medical and surgical supplies, crutches and apparatus as may be reasonably required at the time of the injury and thereafter during the disability, but not exceeding ninety (90) days, to cure and relieve from the effects of the injury, the same to be provided by the employer and in case of his inability or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employé in providing the same; provided, however, that the total liability under this section shall not exceed the sum of one hundred (\$100.00) dollars in value; except that the court, may upon necessity being shown therefor at any time within one hundred (100) days after the date of the injury, require the employer to furnish such additional medical, surgical and hospital treatment and supplies during said period of ninety (90) days, as may be reasonable, which together with any such sums or relief theretofore furnished, shall not exceed in all two hundred dollars (\$200.00) in value.

The pecuniary liability of the employer for the medical, surgical, and hospital service herein required and the liability of the employé for any amount in excess thereof shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when such treatment is paid for by the injured persons, and in all cases of dispute as to the value of the medical or hospital service rendered an injured employé, either party may require that the same, before payment, shall be approved by the court, after such reasonable notice to interested parties as the court shall require. ('13 c. 467 § 18, amended '15 c. 209 § 7)

Under this section the trial court cannot, in the first instance, award more than \$100 for medical services, in absence of an application for additional allowance (134-16, 158+713, L. R. A. 1916F, 957). Master and Servant, ~~385~~(16).

8213. Notice of injury, etc.—

Where the employer has actual notice of the injury, written notice is not required; and where the mayor and street commissioner of a city had knowledge of injury to a city employé immediately after its occurrence, the city was chargeable with notice (131-352, 155+103). Master and Servant, ~~398~~.

A finding of "actual notice" of the injury is equivalent to a finding of "actual knowledge" thereof (132-251, 156+278). Master and Servant, ~~398~~.

Where the employer has actual knowledge of the happening of the accident and of the resulting injury, the giving of notice thereof is not necessary (129-423, 152+838). Master and Servant, ~~398~~.

[8214—]1. Limitation of actions, etc.—The time within which the following acts shall be performed under Part 2 of this act shall be limited to the following periods respectively:

(1) Actions or proceedings by an injured employé to determine or recover compensation; one (1) year after the occurrence of the injury.

(2) Actions or proceedings by dependents to determine or recover compensation; one year after the date of notice in writing given by the employer to the Department of Labor of the state, stating his willingness to pay compensation when it is shown that the death is one for which compensation is payable. In case the deceased was a native of a foreign country, and leaves no known dependent or dependents within the United States, it shall be the duty of the department of labor to give written notice of said death to the consul or other representative of said foreign country forthwith.

(3) Proceedings to obtain judgment in case of default of employer for thirty (30) days to pay any compensation due under any settlement or determination; one (1) year after such default.

(4) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time in this section specified, the period of limitation in

any such case shall be extended for one year from the date when such incapacity ceases. ('13 c. 467, amended '15 c. 209 § 8)

1915 c. 209 § 8 adds a new section to 1913 c. 467, to be known as section 20A, as above set forth.

This section is not retrospective and does not affect accrued causes of action (134-21, 158+715). Limitation of Actions, ~~§~~6(1).

8215. Examination and verification of injury— * * *

(5) Any physician whose services are furnished or paid for by the employer who treats, or who makes or is present at any examination, of an injured employé, may be required to testify as to any knowledge acquired by him in the course of such treatment or examination, relative to the injury or the disability resulting therefrom. ('13 c. 467 § 21, amended '15 c. 209 § 9)

1915 c. 209 § 9 amends this section by adding a subsection, to be known as subsection 5, as above.

8216. Settlement and payment of compensation—Submission to judge of district court—(1) The interested parties shall have the right to settle all matters of compensation between themselves. But all settlements shall be substantially in accordance with the provisions of Sections 13 and 14 of this act [8207, 8208], and shall be approved by a judge of the district court. When so approved such settlements shall be filed with the clerk of the district court and in case of default by the employer in the payment of any compensation determined or agreed upon and the continuation of such default for the period of thirty (30) days after payment is due and payable, the employé may upon five (5) days' notice in writing to the employer of his intention to apply to the court for judgment, cause judgment to be entered on such settlement or determination for all compensation due and payable and unpaid; and such judgment shall have the same force and effect, and may be satisfied as other judgments of the same court. There shall be but one fee, of twenty-five cents (25c) charged by said clerk for services in each case under this subsection and said fee shall cover all services performed by him. * * * ('13 c. 467 § 22 subd. 1, amended '15 c. 209 § 10)

Cited (161+224; note under § 8222, post).

The statute does not require that the employé make a demand on the employer, or that the employer make overtures to the employé, and either party may take the initiative, and, if neither will do so, there is a "failure to agree upon a claim for compensation" (129-423, 152+838). Master and Servant, ~~§~~398.

8217. In case of alien dependents—In case a deceased employé, for whose injury or death compensation is payable, leaves surviving him an alien dependent or dependents residing outside of the United States, the said judge shall direct payment of all compensation due to the deceased or to his dependents to be made to the duly accredited consular officer of the country of which the beneficiaries are citizens, if such consular officer reside within the State of Minnesota, or if not, to his designated representative residing within the state, and such consular officer or his representative shall be the sole representative of such deceased employé and of such dependents to settle all claims for compensation and to receive for distribution to the persons entitled thereto, all compensation arising hereunder. The distribution of said funds to be made only on order of the district court. Such consular officer or his representative shall furnish, if required by the district court, a good and sufficient bond, satisfactory to the court, conditioned upon the proper application of the moneys received by him. Before such bond is discharged, such consular officer or representative shall file with the court, a verified account of the items of his receipts and disbursements of such compensation.

Such consular officer or his representative shall before receiving the first payment of such compensation, and at reasonable times thereafter upon request of the employer, furnish to the employer a sworn statement containing a list of the dependents with the name, age, residence, extent of dependency, and relationship to the deceased of each dependent. ('13 c. 467 § 23, amended '15 c. 209 § 11)

8219. Duties of labor commissioner—The commissioner of labor, and the officers and employés of the department of labor and industries upon demand

of an employer, or an employé or his dependent shall advise such party or parties of his or their rights under this act and shall assist so far as possible in adjusting differences between the employé or his dependent and the employer under Part 2 hereof, and are hereby empowered to appear in person before the court in any proceeding under Part 2 of this act as the representative or adviser of any such party; and in any such case such party shall not be required to be also represented by an attorney at law. The commissioner of labor shall observe in detail the operation of the act throughout the state and shall make report thereof to each session of the legislature, together with such suggestions and recommendations as to changes as he may deem necessary or advisable for the improvement thereof. ('13 c. 467 § 24A, amended '15 c. 209 § 12)

8220. Payment in lump sum—The amounts of compensation payable periodically hereunder, either by agreement of the parties, so approved by the court, or by decision of the court, may be commuted to one or more lump sum payments, except compensation due for death or permanent total disability, or for permanent partial disability resulting from total loss of hearing or from the loss of an arm or a hand or a foot or a leg or an eye or of more than one such member. These may be commuted only with the consent of the district court.

In making such commutations the lump sum payments shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six per cent basis. ('13 c. 467 § 25, amended '15 c. 209 § 13)

161+224; note under § 8222, post.

The court has no authority to commute the periodical payments by awarding a lump sum judgment in lieu thereof, unless the parties agree (134-16, 158+713, L. R. A. 1916F, 957). Master and Servant, Ⓒ385(20).

8221. Settlements to be final—Exceptions—

161+224; note under § 8222, post.

Upon a sufficient showing of newly discovered evidence, a judgment awarding compensation may be opened (134-189, 158+825). Master and Servant, Ⓒ411.

8222. When compensation payable periodically may be modified—

Upon a sufficient showing of newly discovered evidence, a judgment awarding compensation may be opened; § 7786, ante, applying (134-189, 158+825). Master and Servant, Ⓒ411.

Cited (161+388) as bearing on question whether judgment in common-law action for death was a bar to proceedings under the compensation act.

This section applies only to cases where the capacity of the injured man has increased or decreased since the award was made, and is not a remedy for the correction of errors in fixing the compensation (161+391). Master and Servant, Ⓒ419.

Under this section and §§ 8220, 8221, an award is subject to readjustment as an award of an amount payable periodically for more than six months, when the payments voluntarily made prior to the award under a concession of liability, and taken into consideration in making the award, together with those directed to be made by the award, exceed periodical payments for such period, though the payments directed by the award to be made are not for so long a period as six months (161+224). Master and Servant, Ⓒ419.

8225. Procedure in case of dispute—Procedure in case of dispute shall be as follows: Either party may present a verified complaint to said judge setting forth the names and residences of the parties and the facts relating to employment at the time of injury, the injury in its extent and character, the amount of wages being received at the time of injury, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary and proper for the information of the said judge, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto.

Upon the presentation of such complaint, it shall be filed with the clerk of the district court of the proper county, and the judge shall fix by order a time and place for the hearing thereof, not less than three (3) weeks after the date of the filing of said complaint. A copy of said complaint and order shall be served as summons in a civil action upon the adverse party within four (4) days after filing the complaint. Within seven (7) days after the service of such complaint, the adverse party may file and serve a verified answer to said complaint, which shall admit or deny the substantial averments of the com-

plaints, and shall state the contention of the defendant with reference to the matter in dispute as disclosed by the complaint. Within five (5) days after the service of the answer the complainant may file and serve a verified reply admitting or denying the matters set forth in the answer.

At the time fixed for hearing, or any adjournment thereof the said judge shall hear such witnesses as may be presented by each party, and in a summary manner decide the merits of the controversy. This determination shall be filed in writing with the clerk of the said court, and judgment shall be entered thereon in the same manner as in causes tried in the said district court and shall contain a statement of facts as determined by said judge. Subsequent proceedings thereon shall only be for the recovery of moneys thereby determined to be due, provided that nothing herein contained shall be construed as limiting the jurisdiction of the supreme court to review questions of law by certiorari. Costs may be awarded by said judge in his discretion, and when so awarded the same costs shall be allowed, taxed and collected as are allowed, taxed and collected for like services and proceedings in civil cases, provided, that if it shall appear that the employer, prior to the commencement of the action, made to the person or persons entitled thereto, a written offer of compensation in specific terms, which terms were in accordance with the provisions of this act, then no costs shall be awarded or taxed against such employer. Whenever any decision or order is made and filed by the judge upon any matter arising under Part 2 of this act, the clerk of the court shall forthwith make and forward to the commissioner of labor a certified copy of said decision or order with any memorandum of the judge and of any judgment entered. No fee or other charge shall be collected therefor. ('13 c. 467 § 30, amended '15 c. 209 § 14)

161+224; note under § 8222, ante.

Cited (129-502, 153+119, L. R. A. 1916A, 344).

Nature of proceedings—Proceedings under this section are summary, and when the real parties in interest have pleaded, and a reasonable time has been given to all to prepare for trial, the court may proceed to hear and determine the controversy (133-402, 158+615). Master and Servant, Ⓒ394.

Time and place of hearings—Notwithstanding §§ 176, 177, 183, and 184, fixing the time and place of holding court in St. Louis county, hearings under this section are to be held at the time and place fixed by the judge, regardless of the time and place of holding the regular terms of the court (129-423, 152+838). Master and Servant, Ⓒ409.

Review—The supreme court cannot review an order overruling a motion to set aside a judgment of the district court awarding compensation, as certiorari will lie to review a final order only; such order being intermediate (132-100, 155+1057). Master and Servant, Ⓒ417(3).

Upon certiorari issued on the relation of the one against whom judgment fixing the compensation is entered, the claimant cannot have the record reviewed (132-249, 156+120). Master and Servant, Ⓒ417(3).

Findings of trial court, in absence of settled case, are presumed to be within issues litigated, whether presented by the pleadings or not (129-156, 151+910). Appeal and Error, Ⓒ931(1).

Fees and costs allowed—The allowance of attorney's fees is not authorized by the act, but the court may allow statutory costs, although designated in the order as attorney's fees (129-423, 152+838). Master and Servant, Ⓒ420.

Judgments reopened when—Upon a sufficient showing of newly discovered evidence, a judgment awarding compensation may be opened, and § 7786, ante, applies (134-189, 158+825). Master and Servant, Ⓒ411.

Evidence—Where the employer and insurer filed a joint answer alleging that defendants were ready and willing to pay the compensation due plaintiff under the act, together with reasonable hospital and medical expenses, plaintiff was not obliged to prove compliance with the provisions of the act necessary to make the insurer liable directly to the injured workman, and defendants are barred from resisting the claim for medical expenses on the ground that their own physician was ready to perform the services (161+391). Master and Servant, Ⓒ401, 403.

Findings of the trial court to the effect that claimant was injured while engaged in the work of his employment, and that the employer had actual knowledge thereof, and that the injury rendered claimant totally disabled, held sustained by the evidence. A finding that the employer had "actual notice" of the injury is equivalent to a finding of "actual knowledge" thereof (132-251, 156+278). Master and Servant, Ⓒ405(1).

8226. Rights of action preserved—

Cited (128-221, 150+623).

8227. Insurance of risks of employers—Conditions—Any employer who is responsible for compensation as provided under Part 2 of this act may insure the risk in any manner then authorized by law. But those writing such insurance shall in every case be subject to the conditions in this section hereinafter named.

If the risk of the employer is carried by any insurer doing business for profit, or by any insurance association or corporation formed of employers, or of employers and workmen, to insure the risks under Part 2 of this act, operating by the mutual assessment or other plan or otherwise, then insofar as policies are issued on such risks they shall provide for compensation for injuries or death according to the full benefits of Part 2 of this act. But nothing herein contained shall prevent an employer from insuring only a particular class or classes of employes or of risks.

Such policies shall contain a clause to the effect that as between the workman and the insurer, that notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for arbitration or other purposes shall be jurisdiction of the insurer, and that the insurer will in all things be bound by and subject to the awards rendered against such employer upon the risks so insured.

Such policies must provide that the workman shall have an equitable lien upon any amount which shall become owing on account of such policy to the employer from the insurer and in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the workman or dependents, the said insurer will pay the same direct to said workman or dependents, thereby discharging all obligations under the policy to the employer and all of the obligations of the employer and insurer to the workman; but such policies shall contain no provisions relieving the insurance company from payment when the employer becomes insolvent or discharged in bankruptcy or otherwise, during the period the policy is in force, if the compensation remains owing.

The insurer must be one authorized by law to conduct such business in the state of Minnesota, and authority is hereby granted to all insurance companies writing such insurance to include in their policies in addition to the requirements now provided by law the additional requirements, terms and conditions in this section provided.

No agreement by an employe to pay to an employer any portion of the cost of insuring his risk under this act shall be valid. But it shall be lawful for the employer and the workman to agree to carry the risks covered by Part 2 of this act in conjunction with other and greater risks and providing other and greater benefits such as additional compensation, accident, sickness or old age insurance or benefits, and the fact that such plan involves a contribution by the workman shall not prevent its validity if such plan has been approved in writing by the commissioner of labor. Any employer who shall make any charge or deduction prohibited by this section shall be guilty of a misdemeanor.

If the employer shall insure to his employes the payment of the compensations provided by Part 2 of this act, in a corporation or association authorized to do business in the state of Minnesota and approved by the insurance commissioner of the state of Minnesota, and if the employer shall post a notice or notices in a conspicuous place or in conspicuous places about his place of employment, stating that he is so insured and stating by whom insured, and if the employer shall further file copy of such notice with the labor commissioner of the state of Minnesota, then, and in such case, any suits or actions brought by an injured employe or his dependents shall be brought directly against the insurer, and the employer or insured shall be released from any further liability.

Provided that in case of insolvency or bankruptcy of such insurance company the employer shall not be released from liability under the provisions of this act.

The return of any execution upon any judgment of an employé against any such insurance company unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such insurance company and in case of the adjudication of bankruptcy or insolvency of any such insurance company by any court of competent jurisdiction, proceedings may be brought by the employé against the employer in the first instance or against such employer and insurance company jointly or severally or in any pending proceeding against any insurance company, the employer may be joined at any time after such adjudication. ('13 c. 467 § 31A, amended '15 c. 209 § 15)

(Cited (162+894).

Where an employer insures his workmen under this section, it is not necessary to the maintenance of an action against the insurer that the notice provided for be filed in the office of the labor commissioner before the accident which causes the injury occurs (133-402, 158+615). Master and Servant, Ⓒ383.

Effect of joint answer of employer and insurer, alleging readiness and willingness to pay hospital and medical expenses, as to right of defendants to dispute the employee's claim for medical expenses incurred for the services of a physician other than the regular physician employed by defendants (see 161+391; note under § 8225, ante).

8228. Certain persons liable as employers—Contractors, sub-contractors, etc.—

128-43, 150+211; notes under § 8230 (d).

8229. (1). Liability of party other than employer—Procedure—Third party under part 2—

134-113, 158+913; 126-286, 148+71, L. R. A. 1916D, 412; note under § 8202.

This section has reference to cases where a third person is also subject to the compensation statute, and not where he is not so subject. The fact that the third person is an officer or agent of a corporation which is subject to the statute does not render the statute applicable, unless the officer was acting in the course of his authority for the corporation, and to such an extent as to render the corporation liable for his act (132-344, 157+506). Master and Servant, Ⓒ354.

Cited (161+388) on question whether judgment in action for wrongful death was a bar to proceedings under the compensation act.

Subd. 2—132-128, 155+1077, L. R. A. 1916D, 644; note under § 8204.

8230. Words and phrases defined— * * *

(b) "Child" or "children" shall include posthumous children and all other children entitled by law to inherit as children of the deceased, also step-children who were members of the family of the deceased at the time of his injury and dependent upon him for support. ('13 c. 467 § 34 subd. (b), amended '15 c. 209 § 16)

(g) The terms "employé" and "workman" are used interchangeably and have the same meaning throughout this act, and shall be construed to mean:

(1) Every person in the service of a county, city, town, village or school district therein, under any appointment or contract of hire, express or implied, oral or written; but shall not include any official or any county, city, town, village or school district therein, who shall have been elected or appointed for a regular term of office, or to complete the unexpired portion of any regular term.

(2) Every person, not excluded by Section 8 [8202], in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of the state. ('13 c. 467 § 34 subd. (g), amended '15 c. 209 § 17)

Cited (161+388) on question as to whether judgment in common-law action for death was a bar to proceedings under the compensation act.

Subd. (a)—This act is not prospective, and the limitation provided by § 8, adding to the former act a section to be numbered 20a, does not affect causes of action which had accrued at the passage of the act (134-21, 158+715). Master and Servant, Ⓒ349.

Subd. (b)—A child adopted by a widow after the death of her husband is not entitled to the benefit of subd. 9 of § 8208, ante (133-265, 158+250). Master and Servant, Ⓒ388.

Subd. (c)—A widowed daughter of deceased held entitled to compensation, though she was 30 years of age and was not physically or mentally incapacitated to earn money (134-131, 158+798). Master and Servant, Ⓒ388. See note under § 8208(3), ante.

Subd. (d)—This provision does not confine the relation of employer and employé within narrow limits, the ordinary test as to that relation being applicable. Test for determining relation of master and servant stated (128-43, 150+211). Master and Servant, Ⓒ88(1).

Evidence held to sustain a finding that a deceased workman was an employé at the date of his injury (133-402, 158+615).

Subd. (g) (1)—A policeman is a person in the service of a city, he not being appointed for a regular term of office; and hence he is an "employé" within the act (134-26, 158+790).

The dependents of a fireman of a city, killed while in the performance of his duty, are entitled to recover under this act. The fact that a city fireman was a member of a firemen's relief association, the funds of which were derived from a state tax, from a portion of insurance premiums collected, and from voluntary contributions of members of the association, did not prevent the dependents of the fireman, killed in the performance of his duties, from receiving compensation under this act to the full amount (134-26, 158+790). Master and Servant, [§ 364](#), 386(2).

Subd. (g) (2)—The clause "minors who are legally permitted to work under the laws of the state," found in this section was intended to exclude minors whose employment is prohibited by law (162+680). Master and Servant, [§ 366](#).

A boy of 18, though not licensed as an elevator operator under § 1432, was not, in view of §§ 3848, 3871, illegally employed, and hence excluded from the workmen's compensation act, where, at the time of his injury he was a student operator, and was operating the elevator alone during the absence of his instructor (133-109, 157+995). Master and Servant, [§ 366](#).

Subd. (h)—What constitutes "accident," see notes under §§ 8195, 8203.

Subd. (i)—An injury may be received in the course of the employment, and still have no causal connection with it, so that it can be said to arise out of the employment (129-176, 151+912). Master and Servant, [§ 375\(1\)](#).

Subd. (k)—129-91, 151+530; note under § 8207 (c).

CHAPTER 85

OFFICIAL AND OTHER BONDS—FINES AND FORFEITURES

8231. Bonds, etc.—Sureties, qualifications—

126-435, 148+454.

8233. State and county officers—Uniform bond—

A statutory bond, containing the statutory conditions, and also other conditions, will be so construed as to give effect to the statutory conditions, unless the language of the bond precludes such construction (122-504, 142+899, Ann. Cas. 1914D, 945). Bonds, [§ 50](#).

8235. Surety companies—

A corporation, in the business of executing bonds as security for a consideration or premium, is entitled to the benefit of the equitable right of subrogation (126-188, 148+55). Subrogation, [§ 33\(1\)](#).

8243. Official bonds, security to whom—Actions—

Cited (162+1054).

Sureties on an official bond are liable for unfaithful or improper conduct of the officer in the performance of acts or duties authorized or required by law, including trespass on person or property while performing official acts; but they are not liable for acts wholly outside the scope of the official duties of the principal (133-274, 158+394). Officers, [§ 129](#).

8244. Leave to bring action—Indorsement on execution—

The provision for leave of court does not apply to action on a liquor dealer's bond (162+1054). Intoxicating Liquors, [§ 282](#).

8245. Bonds of public contractors—Contracts with state board of control—Penalty—

Cited (162+1054; 133-54, 157+901).

Liability of sureties in general—Liability of sureties for delay in performance of contract for construction of school building (see 133-351, 158+619). Principal and Surety, [§ 82\(2\)](#).

Acquiescence in contractor's default as discharging sureties (see 133-351, 158+619). Principal and Surety, [§ 129\(1\)](#).

Liability on bond given under this section dependent on construction of contract (see 135-9, 159+1075).

County ditch contractor's bond—County ditch contractor's bonds held valid statutory obligations only to the extent of the fair import of their conditions (125-211, 146+359, Ann. Cas. 1915C, 688). Drains, [§ 49](#).

Rural highway contractor's bond—The bond required to be given by a contractor for the construction of a state rural highway, and conditioned as required by this section secures the payment of labor, skill, and material furnished in repairs upon tools and machinery employed in the work, and also for the reasonable value or agreed price of the use of appropriate tools and machinery furnished during and in the construction; but it does not secure payment of