

Workmen's Compensation Act—Loss of Fingers, Compensation For—Prior Accident.

Where an employee, who has lost fingers, suffered the loss of two additional fingers by an accident, which would have severed the others had they been in place, is entitled to compensation for the whole hand, less the proportionate value of the remaining portion of the hand.

Sept. 2nd, 1919.

Industrial Accident Board,
Helena, Montana.

Gentlemen:

You have submitted to me the files and letters in the case of Andrew E. Bart for accidental injury to his left hand while operating a jointer. The particular injury suffered by this accident was the severing of the entire thumb and little finger and the remaining stump of the ring finger of the left hand. The remainder of the ring finger and the index and middle fingers had been lost in a previous accident.

The question is: To what compensation is the employee entitled? It appears he drew the regular scale of wages for such work and pre-

sumably was able to perform his duties in a satisfactory manner notwithstanding the loss of the fingers above referred to. The fact that he was following his usual vocation shows that he had attained such a degree of efficiency in the use of the remaining portion of his hand as to not prevent him from earning his living in the same manner as before it occurred, and that his earning power as a laborer had not been reduced. It is also aparent from an examination of the illustration shown on the attending physician's report that the revolving blade that cut off a thumb and little finger and remaining stub of the ring finger of the hand would also have cut off the other fingers had they been in place. However, the right to compensation does not depend upon the salary, though the amount thereof within certain limits does. Section 16 (1) of the Workmen's Compensation Act fixes certain compensation for specific injuries, being onehalf the wages received at the time of the accident, not exceeding \$12.50 per week. For the loss of a hand one hundred and fifty weeks. The hand is defined by lexicographers as composed in part of the fingers. It consists of the metacarpus or palm and the digits or fingers, and may include the carpus or wrist. *Gerhart vs. Metropolitan Light and Railway Co.*, 112 S. W. 12 and 13.

Employee who had previously lost part of one finger but nevertheless had use of hand who as a result of later injury not resulting in total severance, totally lost use of hand, held entitled to compensation for total loss of use of hand, though with mechanical appliances he could perform some manual labor. *Mark Mfg. Co. vs. Ind. Accd. Comm.*, 122 N. E. 84.

Where an employee who was near-sighted and had only fifty per cent vision, lost the use of an eye, it was not error to allow compensation for the loss of an eye as against a claim that she had lost only fifty per cent of vision. *Hobarts vs. Columbia Shirt Co.*, 173 N. Y. 606.

Where an employee as a result of an injury los four of his fingers on the right hand, the Industrial Commission was authorized under the statute to estimate the proportionate loss of the use of claimant's hand. *Birman v. Reliance Metal Co.*, 175 N. Y. S. 838.

Where, because of injury, it was necessary to amputate the index, middle and ring fingers of the hand, back of the head of the metacarpal bones, and the little finger at the second joint, the fleshy part of the thumb also being injured, compensation for the injury should have been awarded as for loss of fingers and not for total loss of use of hand. *Barringer vs. Clack*, 172 N. Y. S. 398; *Lovalo v. Mich. Stamping Co.*, 167 N. W. 904.

It is therefore apparent that compensation should be for the whole hand less the proportionate value of the remaining portion of the hand.

Respectfully,

S. C. FORD,

Attorney General.