
Part III - Workers' Benefits

QUESTION: What is compensation?

Answer

Compensation is money paid to a worker when he/she has been disabled or killed:

- (a) As a result of an accident arising out of and in the course of his/her employment; or
- (b) As a result of certain scheduled diseases caused by the workers' particular trade or occupation.

QUESTION: What does disablement mean?

Answer

Disablement means loss or decrease of earning capacity or reduction of the chances of obtaining work.

QUESTION: How is loss or decrease of earning capacity measured?

Answer

Loss or decrease of earning capacity is measured in terms of:

- (a) Physical disability suffered by the worker as assessed by a Medical Assessment Board, and
- (b) The effect this disability will have on the worker's earning capacity or his/her chances of obtaining work.

QUESTION: When is compensation payable?

Answer

Compensation is payable for:

(a) Temporary disablement

A worker who is temporarily disabled and cannot return to work following an accident, is entitled for a period not exceeding eighteen months, to receive monthly periodical payments.

(b) Permanent disablement

When a worker's injuries are static, or he/she is able to return to work, his/her degree of permanent disability will be assessed. If he/she has suffered permanent disablement, he/she will be entitled to:

(i) a lump sum payment if the degree of disablement is 10%; or

(ii) A pension for life if the degree of disablement is 11% or above.

QUESTION: Who decides what compensation is payable and to whom can the worker appeal?

Answer

The Workers' Compensation Commissioner decides on the basis of facts reported to him whether the claim for compensation can be accepted and the amount of compensation payable.

Any person aggrieved by the Commissioner's decision may appeal to the worker's compensation Tribunal within 21 days of that decision.

QUESTION: For how long is an injured worker entitled to receive periodical payments?

Answer

The maximum time limit in which a partially or totally disabled worker is entitled to periodical payments is 18 months from the date of commencement of disablement. At the end of 18 months, he is deemed to have suffered permanent disablement and periodical payments cease, provided that:

(a) it is proved that after 18 months from the date of commencement of disablement, the commissioner may, in his discretion, direct the continuance of such disablement for a further period of six months (giving a total of 24 months from the date of commencement of the disablement).

(b) where, after 18 months have expired from the commencement of the disablement, a worker starts receiving a pension and then undergoes further medical, surgical or remedial treatment necessitating further absence from work and which in the opinion of the Commissioner will reduce the disablement from which the worker suffers, the Commissioner may suspend the entitlement to the pension and any children's allowances for such a period as he considers equitable and in lieu thereof the worker shall be entitled to periodical payments.

QUESTION: If the employer pays full earnings to his injured worker during the time of disablement (when he/she is hospitalized), is the worker entitled to periodical payments from the Board?

Answer

The worker is not entitled to any periodical payments. Instead the Board will reimburse the employer to the extent of the periodical payments to which the worker would otherwise have been entitled.

QUESTION: Would compensation be payable where a worker meets with an accident that is attributed to serious and wilful misconduct on his/her part?

Answer

No. Accidents that are attributed to the serious and wilful misconduct on the part of the worker are not compensatory unless such accidents result in serious permanent disablement or the worker dies in consequence of the accident leaving as dependents a spouse, or a child or any other person wholly dependent upon him/her.

QUESTION: Who is a widow?

Answer

Under the Workers' Compensation Act, a widow is defined as any lawful wife or woman whom the worker was living with as man and wife at the time of the accident.

QUESTION: How many children are entitled to allowances?

Answer

Eight children under the age of 18 are entitled to allowances with the youngest receiving 15% and the rest 5% each of the monthly pension of the worker. However, total children's allowances should not exceed 50% of the worker's pension.

QUESTION: What is meant by (i) Part commutation (ii) Maximum commutation (iii) Total commutation?

Answer

The Commissioner at his discretion may grant a commutation to a pensioner to purchase/construct a dwelling house, enter into a business venture or any undertaking considered to be of lasting benefit. Normally these are:

(a) Part commutation – a certain amount from his/her pension is reduced to yield a lump sum for the purpose so required leaving a reasonable residual monthly pension.

(b) Maximum commutation – where pension is substantial, the monthly pension is reduced by K1, 000.00 to yield a lump sum.

(c) Total commutation – where the commissioner feels pension is minimal, the whole amount is commuted if the pensioner is agreeable and the case is closed thereafter.

QUESTION: What other benefits are obtainable from the Board?

Answer

Apart from the monthly pension and children's allowances, the Board rehabilitates disabled pensioners in various courses such as industrial sewing, metal-work, carpentry and typing, to mention a few. The Board also provides medical aid and funeral grants.

QUESTION: Who pays my salary whilst I am in hospital?

ANSWER

Your employer pays you the salary, which is later reimbursed by the Board.

QUESTION: What if I need spectacles, can the Board buy me a pair?

Answer

Depending on the cause of the disablement and the recommendation of the doctor, the Board can buy the spectacles.

QUESTION: What if I was not married at the time of my death (single deceased), who would receive my benefits?

Answer

In case of a single deceased worker, the Commissioner would establish whether there were any persons wholly or partially dependent upon him/her who would be paid a lump sum.

Question: Are managers entitled to compensation?

Answer

Unlike in the past, under the new Act, managers are entitled to compensation.

QUESTION: Can the Board grant me a loan to buy or build a dwelling house?

Answer

The Board does not give out loans to its beneficiaries but assists them with commutations after the Commissioner has satisfied himself that the venture is to the lasting benefit of the beneficiary.

QUESTION: What if I want to start a business or go farming, can I as a pensioner be assisted?

Answer

Yes, the Board may assist you to venture into viable projects, by allowing you to commute part of your monthly pension.

QUESTION: How many times can a pensioner be allowed to commute part of his pension?

Answer

Commutation is allowed only once due to depletion of monthly payments, but in special circumstances, the commissioner may grant a second commutation.

QUESTION: Can I be a member of the Board as an individual worker?

Answer

No, only employers are required to register with the Board and are made to pay assessments to cover their workers in case of an accident arising out of and in the course of their employment.

QUESTION: What happens when the pensioner dies?

Answer

The spouse is paid reversionary pension, which is four-fifths ($\frac{4}{5}$) of the pensioner's monthly pension. On the death of a pensioner, up to 8 children under the age of 18 are entitled to allowances with the youngest receiving 15% and the rest 5% each of the monthly pension of the worker. However, total children allowances should not exceed 50% of the worker's pension.