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# Workmen's Compensation--Recompense for Mental Injury Caused by Emotional Pressure

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## Recent Decisions

### WORKMEN'S COMPENSATION — RECOMPENSE FOR MENTAL INJURY CAUSED BY EMOTIONAL PRESSURE

*Carter v. General Motors Corporation*, 361 Mich. 577, 106 N.W.2d  
105 (1960)

Query: Whether the aggravation, due to emotional pressure of an assembly line job, of a pre-existing latent mental disturbance resulting in a mental collapse is a compensable injury within the meaning of the Workmen's Compensation Act of the state of Michigan.

This issue was raised in *Carter v. General Motors Corporation*.<sup>1</sup> Carter, the plaintiff, was employed as a machine operator on assembly line production. His job consisted of removing, one at a time, a certain part from a table, taking it to his workbench, boring holes in it, and then placing it on a conveyor belt. The plaintiff was unable to keep pace with the flow of parts by taking only one at a time; therefore, he began to remove two at a time. By so doing, he was able to keep pace, but by replacing both of the parts on the conveyor belt at the same time, he disrupted the coordination of the remaining sections of the assembly line. The foreman continually reprimanded the plaintiff for doing this. The stress and frustration caused by not being able to cope with the demands of his job, coupled with anxiety over the possibility of losing his job, resulted in his suffering a mental collapse.

The Supreme Court of Michigan held that a mental injury resulting from emotional pressure is a compensable injury within the Workmen's Compensation Act of Michigan. However, compensation was awarded only for the period that the claimant was unable to work.

An analysis of the philosophy of the workmen's compensation acts and of the judicial requirements for compensation thereunder substantiates the declaration of the Michigan Supreme Court that this decision was based on precedent and logic.<sup>2</sup> The objective of the workmen's compensation acts is to provide compensation for employees and their families when such employees are disabled as a result of an injury incurred in the course of employment.<sup>3</sup> Society is seeking to place the burden for work-caused injuries upon the industry that has caused them, rather than on the workmen and public welfare. It is reasoned that by forcing industry

1. 361 Mich. 577, 106 N.W.2d 105 (1960).

2. "In due course we shall examine the authorities so holding, including decisions of this Court made venerable by age and by the compelling logic of their reasoning, for it is upon those past decisions of this Court that our decision in this case is firmly planted." *Id.* at 580, 106 N.W.2d at 105.

3. 1 LARSON, WORKMEN'S COMPENSATION LAW § 1.00 (1952).

to bear the financial burden for those who are injured, industry will take adequate precautions to prevent such injuries.<sup>4</sup> However, workmen's compensation is not social insurance. The employer is not a guarantor of the health of his employees. A causal relationship must be established between the injury and the employment in order that the injury be compensable.<sup>5</sup> At the same time, tort law doctrines of causal relationship are not to be applied in determining the right of compensation. The compensation acts were passed to remedy a situation that tort law was too inflexible to meet.<sup>6</sup>

### *Criteria for Compensation*

The workmen's compensation statutes of the various states establish criteria which the injured workmen must meet in order to qualify for compensation.<sup>7</sup> The task of interpreting the "magic words," that is, the criteria of the statutes, is left to the courts and administrative boards. The statutes are thereby defined according to case by case application of the statutory language to a given fact situation. As the nature of industry is changing, the types of accidents that occur in industry also are changing. Therefore, the early interpretations of the "magic words" are, in many cases, no longer appropriate. Thus, the courts are faced with the alternatives: (1) refusing compensation, basing their decision on precedent that was established before automation, or (2) abandoning the old criteria and establishing new standards. The courts are hesitant in doing the latter because of the lack in many instances of legislative directive.

The intangibles of economic and political pressure operate on the courts in their interpretation of the statutes. For example, in Michigan, where the supreme court justices are elected, the Republican justices consistently vote against granting compensation while the Democratic justices consistently vote for it.<sup>8</sup>

The definitions set forth in the compensation acts of the states vary to some degree, but in general, the requirements of a compensable injury are:

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4. Horovitz, *Workmen's Compensation Law: Review of Leading Current Cases*, 19 NACCA L.J. 34, 41 (1957). Lloyd George, the Prime Minister of England, supposedly campaigned for the passage of a workmen's compensation act with the slogan, "The cost of the product should bear the blood of the workman." PROSSER, TORTS 383 (2d ed. 1955).

5. HOROVITZ, INJURY AND DEATH UNDER WORKMEN'S COMPENSATION LAWS 147 (1944) [hereinafter cited as HOROVITZ].

6. *Id.* at 8. See 1 SCHNEIDER, WORKMEN'S COMPENSATION TEXT § 6 (1941, Supp. 1958); 35 NOTRE DAME LAW. 471 (1960). Prior to the acts the common-law tort doctrines of contributory negligence, assumption of risk, and the fellow-servant rule were effective bars to recovery by an injured workman. PROSSER, TORTS § 68 (2d ed. 1955).

7. HOROVITZ 72.

8. Downing, *Workmen's Compensation, 1959 Survey of Michigan Law*, 6 WAYNE L. REV. 144, 151 (1959).

A personal *injury by accident arising out of and in the course of employment.*<sup>9</sup> (Emphasis added.)

### "Accident"

The standard definition of "accident" as used in the workmen's compensation acts is:

[A] sudden, unusual, unexpected — or unlooked for mishap or an untoward event which is not expected or designed . . .<sup>10</sup>

In the *Carter* case the court was not faced with the problem of whether the injury was "accidental" because the word "accident" had been removed from the body of the Michigan statute by a 1943 amendment. The fact that "accident" had been allowed to remain in the title of the statute was not, according to a 1957 supreme court ruling,<sup>11</sup> indicative of a legislative intent to have the term "accident" control the meaning of the act.<sup>12</sup>

In some states the courts have read the word "accidental" into the definition of "injury" even though the statutes make no mention of the word. In essence this is what the courts of Ohio have done.<sup>13</sup> The Workmen's Compensation Act of Ohio until its amendment in 1959 defined "injury" as including

any injury received in the course of, and arising out of, the injured employee's employment.<sup>14</sup>

However, the Ohio courts in applying the above definition have developed a more restrictive one:

"Injury" comprehends a physical or traumatic injury, accidental in its origin and cause; the result of a sudden happening occurring by chance, unexpectedly, and not in the usual course of events at a particular time.<sup>15</sup>

9. HOROVITZ 72.

10. *Id.* at 84.

11. *Sheppard v. Michigan Nat'l Bank*, 348 Mich. 577, 83 N.W.2d 614 (1957).

12. Downing, *Workmen's Compensation, 1957 Survey of Michigan Law*, 4 WAYNE L. REV. 155, 161 (1958).

13. OHIO CONST. art II, § 35: "For the purpose of providing compensation to workmen and their dependents for death, injuries, or occupational diseases occasioned in the course of a workman's employment . . ." *Davis v. Goodyear Tire & Rubber Co.*, 168 Ohio St. 482, 486, 155 N.E.2d 889, 892 (1959) (Taft, J., dissenting opinion) (A tire builder strained his back while attempting to remove a tire from a mold. The court refused compensation.); *Johnson v. Industrial Comm'n*, 164 Ohio St. 297, 130 N.E.2d 807 (1955) (Plaintiff contracted pneumonia while working in wet weather, and his death resulted from this. The court denied compensation.); 1 LARSON, WORKMEN'S COMPENSATION LAW § 37.10 (1952): ". . . Ohio, has no reference to 'accident' anywhere in the statute, but read the requirement in anyway."

14. 103 Ohio Laws 79, § 21 (1913).

15. *Jones & Tucker, Workmen's Compensation in the Ohio Supreme Court to 1956*, at 39 (1957) (unpublished thesis in Western Reserve Law School Library). See *Shea v. Youngstown Sheet & Tube Co.*, 139 Ohio St. 407, 40 N.E.2d 669 (1942); *Vogt v. Industrial Comm'n*, 138 Ohio St. 233, 34 N.E.2d 197 (1941); *Spicer Mfg. Co. v. Tucker*, 127 Ohio St.

This definition incorporates the requirement that the injury be "accidental" though the statute makes no mention of such a requirement. In 1959 the Workmen's Compensation Act was amended and "injury" was re-defined:

"Injury" includes any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of a workman's employment.<sup>16</sup>

The legislature seems to have adopted the requirement of "accident," but has attempted to give it a somewhat broader definition than that given to it by the courts. The requirement in Ohio that the injury be accidental barred recovery in *Toth v. Standard Oil Company*.<sup>17</sup> In that case the claimant suffered a stroke caused by the aggravation of a pre-existing nervous injury when the police questioned him about an accident in the course of his employment. The court held that such an injury was not compensable because it was not "accidental" within the definition given to that word by the courts.<sup>18</sup> "Accidental" in the *Toth* case only involved the problem of a physical injury caused by emotional pressure, whereas in the *Carter* case there was the added problem of a mental injury caused by emotional pressure. This fact, plus the fact that the word "accidental" was included in the 1959 amendment to the Ohio Workmen's Compensation Act, makes it improbable that the Ohio courts would allow compensation in a situation similar to that in the *Carter* case.<sup>19</sup> Thus, the use or nonuse of the first magic word under consideration, "accidental," is most important in attempting to forecast a state's policy toward workmen's compensation claims based upon mental injuries.

### "Injury"

The second "magic word" of the workmen's compensation statutes is "injury." The precise problem presented in the *Carter* case is whether "injury" includes mental as well as physical injury.<sup>20</sup> A broad definition of "injury" is:

"Personal injury" includes any harmful change in the body. It need not involve physical trauma, but it may include such injuries as disease, sun-

421, 188 N.E. 870 (1934); *Renkel v. Industrial Comm'n*, 109 Ohio St. 152, 141 N.E. 834 (1923); *Industrial Comm'n v. Roth*, 98 Ohio St. 34, 120 N.E. 172 (1918).

16. OHIO REV. CODE § 4123.01(c) (Supp. 1960).

17. 160 Ohio St. 1, 113 N.E.2d 81 (1953).

18. *Id.* at 2, 113 N.E.2d at 81.

19. In the case of *McNees v. Cincinnati St. Ry.*, 90 Ohio App. 223, 101 N.E.2d 1 (1951), the court held that mental strain or worry could be an injury under the Workmen's Compensation Act. However, mental injuries are usually caused by a series of incidents, and not by a sudden occurrence. Whether the new definition of "injury" promulgated by the Ohio legislature would include such injuries remains to be determined.

20. *Carter v. General Motors Corp.*, 361 Mich. 577, 585, 106 N.W.2d 105, 109 (1960).

stroke, nervous collapse, traumatic neurosis, hysterical paralysis, and neurasthenia.<sup>21</sup>

Many courts have refused to accept such a broad definition in dealing with mental injuries and instead have incorporated the requirement of "impact." They are borrowing this concept from the field of torts. The "impact" theory states that recovery will not be granted for mental injury unless there has been some physical contact with the person of the plaintiff.<sup>22</sup>

In the recent case of *Chernin v. Progress Service Company*,<sup>23</sup> a taxicab driver involved in an accident within the course of employment became mentally ill after being questioned by the police. The argument with the police and their questions aggravated a pre-existing mental illness. A New York Supreme Court, Appellate Division, refused compensation because the plaintiff's mental injury was not caused by any physical contact and therefore he did not suffer an "injury" within the meaning of the Workmen's Compensation Act. Commentators on this case severely criticized the decision for applying the tort doctrine of "impact" in determining whether a mental injury was compensable.<sup>24</sup>

The refusal of a court to grant compensation for a mental injury caused by mental stimulus on the basis that it was not caused by physical contact is a failure to take cognizance of medical facts. Medicine recognizes that mental disorders can be caused by psychic trauma, and are as real as mental injuries caused by physical trauma.<sup>25</sup> The case of *Bailey v. American General Insurance Company*<sup>26</sup> succinctly states the argument for defining "injury" as including mental injury:

The . . . "physical structure of the body" . . . refers to the *whole*, to the complex of perfectly integrated and interdependent bones, tissues and organs . . . [It] should be considered that of a living person — not as a static, inanimate thing.<sup>27</sup>

Michigan courts have long permitted compensation for mental injury caused by physical trauma, shock, or fright.<sup>28</sup> They have abolished the

21. 1 LARSON, WORKMEN'S COMPENSATION LAW § 42.00 (1952).

22. PROSSER, TORTS 178 (2d ed. 1955).

23. 9 App. Div. 2d 170, 192 N.Y.S.2d 758 (1959).

24. See 17 WASH. & LEE L. REV. 260 (1960). See also 20 MD. L. REV. 86 (1960).

25. Coon, *Psychiatry for the Lawyer: The Principal Psychosis*, 31 CORNELL L.Q. 327 (1946); Goodrich, *Emotional Disturbances as Legal Damage*, 20 MICH. L. REV. 497 (1922).

26. 154 Tex. 430, 279 S.W.2d 315 (1955). In this case the claimant received a severe nervous shock when one end of a scaffold collapsed and his fellow worker fell to his death. Claimant was saved from a similar fate when he became entangled in the supporting cables. Thereafter claimant was unable to return to his usual work because of a nervous condition. The court held that the injury was compensable.

27. *Id.* at 436, 279 S.W.2d at 318.

28. *Klein v. Len H. Darling Co.*, 217 Mich. 485, 187 N.W. 400 (1922) (An employee suffering from a nervous condition allowed a radiator to slip from his grip and fall to the next floor. It struck another employee. The claimant received a shock because of the belief that

requirement that there must be a physical injury, and have held that both mental and physical injuries are within the meaning of the Michigan statutory word "injury."<sup>29</sup> But the *Carter* case does present one twist that distinguishes it from previous Michigan cases — instead of one single event causing the injury or aggravating the pre-existing injury, it was a series of stimuli over a period of time. The court held that the act did not limit recovery to only single event injuries.

Section 1 of part 2 [of the Michigan statute] . . . provides for a "date of injury" . . . in the case of an injury not attributable to a single event", evidencing a legislative intent that such injuries should be compensable.<sup>30</sup> (Emphasis added.)

In general, compensation is permitted for the aggravation of a pre-existing injury. The general doctrine is that "employers take workmen . . . without any warranty as to previous state of health, known or unknown."<sup>31</sup> In *Redfern v. Sparks-Witbington Company*<sup>32</sup> the Michigan Supreme Court held that the general rule applies to pre-existing mental injuries as well:

[P]re-existing disease [in this case emotional disturbance] does not bar recovery of workmen's compensation when subsequent occupational injury aggravates the condition to the point of disability or precipitates the disability.<sup>33</sup>

### "In the Course of Employment"

The third consideration in the discussion of the "magic words" is "arising out of and in the course of." This is the requirement of causal relationship. In most states a claim based upon mental injury caused by emotional aggravation is not held to be "accidental" within the meaning of the workmen's compensation statutes, nor is it considered a compensable "injury" under such statutes. In these jurisdictions, whether or not there was a causal relationship is not even considered. In the *Carter* case the Michigan Supreme Court had eliminated the first two "magic words" and was only concerned with causation. The court said that it was

he had killed his co-employee, became delirious, and died. The court granted compensation.); *Karwachi v. General Motors Corp.*, 293 Mich. 355, 292 N.W. 328 (1940) (Plaintiff burned his thumb which later became infected. The anguish caused by this condition aggravated a pre-existing latent mental disturbance and the plaintiff suffered a nervous collapse. The court granted compensation.); *Hayes v. Detroit Steel Casting Co.*, 328 Mich. 609, 44 N.W.2d 190 (1950) (Plaintiff suffered an injury to his left eye resulting in its removal. Subsequently he suffered from traumatic neurosis, *i.e.*, brooding over the loss. Compensation was granted.).

29. *Rainko v. Webster-Eisenlohr Inc.*, 306 Mich. 328, 10 N.W.2d 903 (1943).

30. *Carter v. General Motors Corp.*, 361 Mich. 577, 593, 106 N.W.2d 105, 113 (1960); *accord*, *La Veck v. Parke, Davis & Co.*, 190 Mich. 604, 157 N.W. 72 (1916).

31. HOROVITZ 82.

32. 353 Mich. 286, 91 N.W.2d 516 (1958).

33. *Id.* at 299, 91 N.W.2d at 518.

bound by competent evidence which established a causal relationship and proved disability had been suffered.<sup>34</sup> The defendant did not rebut the testimony of the plaintiff's doctor and, therefore, the court had to accept the finding of fact by the lower court.

### *Conclusion*

Many courts have failed to see behind the "magic words" of the statute to the heart of the problem.<sup>35</sup> Recovery of workmen's compensation should not depend on whether a certain fact situation fits within the statutory definition of "injury" or "accidental" as interpreted by past courts. It should depend on causal relationship, liberally construed and proven by competent testimony. A denial of compensation for a work-caused injury because it does not fit within the "magic words" evolved by the courts is a failure to take cognizance of industrial change. The *Carter* case is an excellent illustration of a court's ability to escape from a bog of outmoded doctrines and readjust itself to a changing industrial technology.

ALAN J. SHAPIRO

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34. *Carter v. General Motors Corp.*, 361 Mich. 577, 585, 106 N.W.2d 105, 113 (1960).

35. *E.g.*, *Star Publishing Co. v. Jackson*, 115 Ind. App. 221, 58 N.E.2d 202 (1944); *Voss v. Prudential Ins. Co.*, 14 N.J. Misc. 791, 187 Atl. 334 (Workmen's Comp. Bureau 1936).



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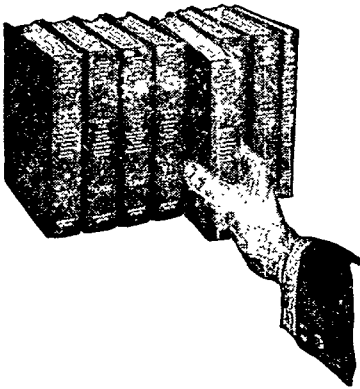
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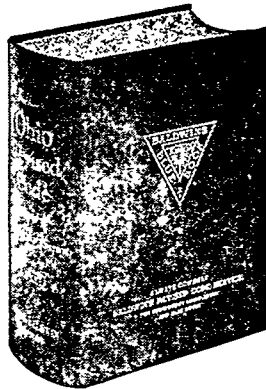
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