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Workers' Compensation—Calculation of Earnings Capacity—Mathison v. Thermal Co., ____ Minn. ____, 243 N.W.2d 110 (1976)

efits rule in this case seems unfair.[41] The purpose of the interceptor sewer across respondent's property was to carry effluent from Burnsville to a new sewage treatment plant.[42] Rather than justifying assessment solely upon speculative market value considerations, the primary purpose rule would first determine the purpose and effect of the improvement to determine whether the sewer was constructed for the benefit of the municipality, or for the local landowners. Moreover, the improvement-type distinction qualification to the special benefits rule would equitably apportion cost based on common experience regarding the effect of certain improvements. Finally, because the foreseeable and restricted use of respondent's property[43] was as a landfill and quarry, a determination of increased market value may have been based on mere speculation and conjecture as to future use. The result in *Burnsville* suggests that Minnesota's special assessments policy should be reviewed.

Workers' Compensation—CALCULATION OF EARNINGS CAPACITY—*Mathison v. Thermal Co.*, ___ Minn. ___, 243 N.W.2d 110 (1976).

Workers' compensation laws were developed to provide a system of compensation to workers injured while at work.[1] Minnesota has adopted this system, which imposes financial liability upon the employer without regard to fault.[2] Under Minnesota law, compensation is based upon

41. *See* City of Edwardsville v. Jenkins, 376 Ill. 327, 331, 33 N.E.2d 598, 601 (1941) (it is impossible to justify special assessment to finance interceptor sewers). *But see* Federal Constr. Co. v. Ensign, 59 Cal. App. 200, 215-19, 210 P. 536, 542-43 (1922) (city built new sewage disposal plant and interceptor sewer and all city property assessed; entire city may specially benefit from local improvement).

42. *In re* Village of Burnsville, ___ Minn. ___, ___, 245 N.W.2d 445, 446 (1976).

43. *See* Brief for Respondent at 21 (with regard to nearly all of respondent's property, any use of land other than present use requires approval of Lower Minnesota River Watershed District, Minnesota Department of Natural Resources, State Pollution Control Agency, City of Burnsville, and Metropolitan Council).

1. The Interim Commission on Industrial Accident Compensation and State Industrial Insurance, *Report to the Legislature of Minnesota*, MINN. S. JOUR. 131 (1921) stated:

> The underlying theory of the new system of compensation is that it is for the welfare of society as a whole that all employe receive certain designated benefits payable in installments, as wages are payable, rather than that a few only of the injured should receive larger amounts in a lump sum; a considerable part of which was often consumed by attorney's fees and expenses of litigation and the balance often lost through unwise business ventures or extravagent living.

2. MINN. STAT. § 176.021(2) (1976) (emphasis added) provides in part:

> Every such employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of his employee arising out of and in the course of employment *without regard to the question of negligence*, unless the injury was intentionally self-inflicted or when the intoxication of the employee is the proximate cause of the injury.

the injured employee's inability to earn the salary he received prior to his injury.[3] The amount of compensation is then two-thirds of the difference between what the employee earned at the time of the injury and what he is able to earn thereafter.[4] In analyzing what the employee is able to earn, post-injury wages are considered an important, but not conclusive, factor.[5] In *Mathison v. Thermal Co.*[6] the Minnesota Supreme Court faced the issue of whether a compensation award should be granted to an employee whose post-injury wages exceeded his pre-injury wages.

In *Mathison* an employee, who worked at a city desk processing orders, received a head injury which arose out of and in the course of his employment. Three years later, a seizure disorder was diagnosed as causally related to that injury. The disorder was controllable by medication, but precluded the employee from engaging in various activities, including working around machinery with moving parts. He remained with the company for five years after the injury, received several raises, and upon termination, obtained similar employment at another company.[7]

The Workers' Compensation Board found that the employee had sustained a fifty percent general permanent partial disability but refused to grant a monetary award because the claimant's post-injury earnings were greater than his earnings at the time of the injury.[8] The Minnesota Supreme Court affirmed the denial of compensation, concluding that

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The employee's right to recovery arises under the Workers' Compensation Act as a contractual right rather than a right arising out of tort. *See* Cunning v. City of Hopkins, 258 Minn. 306, 317-18, 103 N.W.2d 876, 885 (1960) (employee's horseplay did not affect his ability to recover under the Act); Lewis v. Connolly Constr. Co., 196 Minn. 108, 111-12, 264 N.W. 581, 583 (1936) (recovery based on contractual right).

The intent of the legislature in adopting the Workers' Compensation Act was to provide a more certain, speedy, and definite recovery for injured employees in contrast to the slow and uncertain possibilities of litigating every injury. *See* Cunning v. City of Hopkins, 258 Minn. 306, 318, 103 N.W.2d 876, 885 (1960); Kaletha v. Hall Mercantile Co., 157 Minn. 290, 293, 196 N.W. 260, 262 (1923).

3. The compensation awarded under the Workers' Compensation Act is predicated on a reduction in the amount of wage that the injured employee is able to earn after the accident. *See* MINN. STAT. § 176.101(1)-(3) (1976).

For occupational diseases MINN. STAT. § 176.66(1) (1976) defines disability as: "the state of being disabled from earning full wages at the work at which the employee was last employed . . . ." For an example of the application of the occupational disease definition of disability, see Fink v. Cold Spring Granite Co., 262 Minn. 393, 401, 115 N.W.2d 22, 28 (1962).

4. *See* MINN. STAT. § 176.101, subd. 3(49) (1976).

5. Roberts v. Motor Cargo, Inc., 258 Minn. 425, 430-31, 104 N.W.2d 546, 550 (1960) (actual wages do not measure earning capacity but create a presumption of that capacity).

6. ___ Minn. ___, 243 N.W.2d 110 (1976) (per curiam).

7. *Id.* at ___, 243 N.W.2d at 111.

8. *Id.* The employee was earning $122.25 per week when he was injured and approximately $150.00 per week at the time of the compensation hearing.

the post-injury wages, in this situation, were an accurate measure of the claimant's capacity to earn.[9] Additionally, the court, in response to the claimant's assertion that the post-injury wages should be reduced to account for inflation,[10] found no basis in the Workers' Compensation Act for an inflationary adjustment, stating that such an adjustment was the responsibility of the legislature.[11]

Recovery under the Workers' Compensation Act is achieved by a showing that a claimant has suffered a disabling injury.[12] Disability in the workers' compensation sense is a bifurcated concept which considers both the extent of physical injury and the inability to earn wages.[13] Additionally, disability is classified by duration, temporary or permanent, and by degree, partial or total.[14] Once a disability is established the amount of the compensation award is determined either on a prearranged, scheduled[15] percentage of the claimant's wage at the time of the injury or, for nonscheduled injuries,[16] on a percentage of the decrease in

9. *Id.* at ___, 243 N.W.2d at 112.

10. *Id.*

11. The Minnesota Legislature has provided for an inflationary adjustment in the payment of benefits for temporary, partial, total, and permanent total disability. *See* MINN. STAT. § 176.645 (1976) (formula employed to adjust the amount of benefits based on the state's average weekly wage).

12. Workers' compensation is unlike tort law because it does not compensate for injuries received but rather for disabilities resulting from those injuries. *See* 1 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 2.40 (1972). Factors which the courts consider to establish disability include age, general physical condition, education, employment record, and the type of work available in the general community. *See* Reese v. Preston Marketing Ass'n, 274 Minn. 150, 153, 142 N.W.2d 721, 723 (1966).

13. *See* 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.10, at 10-4 (1976).

14. There are four categories of disabilities under MINN. STAT. § 176.101 (1976): temporary total, temporary partial, permanent partial, and permanent total. These terms are not specifically defined in the Act. Total disability, however, is defined in MINN. STAT. § 176.101(5) (1976) which states:

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

See also Mastellar v. Nelson Co-op Creamery, 299 Minn. 210, 211, 216 N.W.2d 836, 837 (1974) (employee is totally disabled if no reasonably stable market exists for services that he is able to perform in his injured state).

15. Scheduled injuries are those injuries which are readily identifiable, such as the loss of an arm or leg, and for which there is a specific compensation amount established. *See, e.g.*, MINN. STAT. § 176.101(3) (1976). Where an injury is scheduled a loss of earnings capacity is presumed. *See, e.g.*, Boquist v. Dayton-Hudson Corp., 297 Minn. 14, 16-17, 209 N.W.2d 783, 785 (1973) (for scheduled injuries loss of earnings capacity is conclusively presumed regardless of an employee's ability to work at the same or greater earnings).

16. Compensation for nonscheduled injuries is governed by MINN. STAT. § 176.101, subd. 3(49) (1976) which states in part: "In all cases of permanent partial disability not enumerated in this schedule the compensation shall be 66 2/3 percent of the difference

the claimant's earning capacity.[17]

Benefits for scheduled injuries are established as a certain percentage, usually two-thirds, of the wage at the time of the injury[18] and are paid to the claimant for a number of weeks, varying with the severity of the injury.[19] Examples of injuries included in the scheduled benefits are the loss of an arm, leg, or hand—severe permanent injuries for which a loss can readily be presumed.[20]

When the injury is not the type included on the scheduled lists, as was the injury in *Mathison*,[21] the amount of compensation must be calculated separately. Two major theories have emerged for this determination:[22] the "whole man" theory, used in only a few states, and the "loss of earnings capacity" theory. The "whole man" theory bases compensation on the functional loss sustained by the claimant.[23] Under this theory

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between the daily wage of the worker at the time of the injury and the daily wage he is able to earn in his partially disabled condition . . . ."

17. Capacity to earn is a theoretical concept which is not defined in the Act. The choice of the words, "able to earn," indicates the legislature's intent not to use the amount of actual wages earned after the injury as the standard by which earning capacity is measured. 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.21 (1976). *But see* Roberts v. Motor Cargo, Inc., 258 Minn. 425, 430-31, 104 N.W.2d 546, 550 (1960) (actual wages create a presumption of earning capacity). Other courts consider the employee's previous work history, education, training, the nature of the work performed, the nature and degree of the injury, and the effect of the injury on the employee's activities. *See, e.g.*, Latour v. Producers Dairy, Inc., 102 N.H. 5, 148 A.2d 655 (1959). *See generally* Riesenfeld, *Basic Problems in the Administration of Workmen's Compensation*, 36 MINN. L. REV. 119 (1952).

18. *See, e.g.*, MINN. STAT. § 176.101, subd. 3(21) (1976) ("For the loss of an eye, 66 2/3 percent of the daily wage at the time of injury during 160 weeks . . . .").

19. *Compare, e.g., id.* § 176.101, subd. 3(21) (65 weeks of compensation for loss of thumb) *with, e.g., id.* § 176.101, subd. 3(36) (500 weeks of compensation for the loss of one arm and one foot).

20. *See id.* § 176.101, subds. 3(15), 3(18)-(19).

21. The seizure disorder suffered by Mathison was found by the Workers' Compensation Board to be a nonscheduled injury. ___ Minn. at ___, 243 N.W.2d at 111.

22. *See* 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.10, at 10-10 (1976). Larson mentions a third theory, actual wage loss, and cites Pennsylvania as a jurisdiction adopting this theory. The Pennsylvania courts have, however, looked to factors other than wage loss in determining whether compensation should be awarded. *See* Benedict v. Fox, 192 Pa. Super. Ct. 197, 201, 159 A.2d 756, 758 (1960) (age, education, industrial background, and actual wages earned considered in determining partial disability).

23. *See, e.g.*, ARK. STAT. ANN. § 81-1313(d) (1976), which states:

> A permanent partial disability not scheduled . . . shall be apportioned to the body as a whole, which shall have a value of 450 weeks, and there shall be paid compensation to the injured employee for the proportionate loss of the body as a whole resulting from the injury.

The "whole man" theory is only applicable for calculating the length of time that compensation will be paid for a nonscheduled injury. *See* Moyers Bros. v. Poe, 249 Ark. 984, 462 S.W.2d 862 (1971) (scheduled injury could not be apportioned to the body as a whole in determining extent of permanent partial disability). *But see* Glass v. Edens, 233 Ark. 786, 787, 346 S.W.2d 685, 686 (1961) ("Ark. Stats. § 81-1313(d), when read in light

the human body is given a maximum recovery amount, expressed in weeks, with the loss of a body member awarded a proportion of the total body amount.[24]

The second approach used to establish benefits for nonscheduled injuries is the "loss of earnings capacity"[25] test, which compares the claimant's wages at the time of the injury with the wages the claimant is able to earn subsequent to the injury.[26] The claimant's post-injury earnings capacity is the most difficult concept to calculate accurately, with the compensation boards usually looking to the claimant's wage at the time of the compensation hearing.[27] Additionally, compensation boards will examine the entire wage history of the claimant subsequent to the injury.[28] In *Mathison,* for example, the board and court relied upon the fact that the employee received periodic raises following the injury; was receiving an average wage for his job; and was, throughout the post-injury period, receiving a wage equal to or greater than that at the time of the injury.[29]

Minnesota has legislatively adopted the "loss of earnings capacity" test in subdivision 3(49) of Minnesota Statutes section 176.101, which mandates that two-thirds of a decrease in earnings capacity shall be awarded as compensation.[30] The calculation of the subsequent earning capacity is critical because if extrinsic variables are allowed to increase the level of post-injury wages to an amount equal to or greater than the pre-injury wage, no award can be made by the board.[31] The only criteria

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of other sections of the Workmen's Compensation Law, which are not in conflict therewith, does not mean merely functional disability but includes, in varying degrees in each instance, loss of use of the body to earn substantial wages.").

24. *See* ARK. STAT. ANN. § 81-1313(d) (1976).

25. *See, e.g.,* MINN. STAT. § 176.101, subd. 3(49) (1976). *See generally* 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.21, at 10-24 (1976).

26. *See, e.g.,* Peters v. Archer-Daniels Midland Co., 223 Minn. 168, 172-73, 26 N.W.2d 29, 31-32 (1947) (the test is percentage loss of earning ability not the loss of physical ability); Enrico v. Oliver Iron Min. Co., 199 Minn. 190, 191, 271 N.W. 456, 457 (1937) (degree of physical disability not proper basis for determining the award). Minnesota courts have construed permanent partial benefits as compensation for loss of earnings, and not indemnity for loss of member or function of the body. *See* Pramschiefer v. Windom Hosp., 297 Minn. 212, 211 N.W.2d 365 (1973) (per curiam); Boquist v. Dayton-Hudson Corp., 297 Minn. 14, 17, 209 N.W.2d 783, 785 (1973) (basic principle of compensation law is that benefits relate to loss of earnings capacity and not physical injury).

27. *See* Roberts v. Motor Cargo, Inc., 258 Minn. 425, 431, 104 N.W.2d 546, 550 (1960) (actual wages will presume post-injury earning capacity unless rebutting circumstances are shown).

28. *See, e.g.,* Mathison v. Thermal Co., ___ Minn. ___, ___, 243 N.W.2d 110, 111-12 (1976) (dictum) (five-year post-injury employment history considered by the Workers' Compensation Board).

29. *Id.* at ___, 243 N.W.2d at 112.

30. *See* note 16 *supra.*

31. *See* Mathison v. Thermal Co., ___ Minn. ___, ___, 243 N.W.2d 110, 111 (1976) (compensation denied claimant because at all times material to the action, claimant's

which should be allowed to affect the wage amounts is the injury itself.[32] When factors, such as the inflationary effects on wage levels, are not discounted, a true comparison of pre- and post-injury wages cannot be attained.

The object of the "loss of earnings capacity" theory is to ascertain what decrease in earnings capacity the claimant suffered because of his injury.[33] To achieve this objective, the effects of all variables except the injury should be removed from computation of the post-injury wage.[34] The variables which are usually excluded from the post-injury wage include: an inflationary change in the wage level,[35] an increase in the hours worked for the wage period,[36] a change in the claimant's age from minority to adult,[37] a change in the claimant's training,[38] and sympathy

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wages equaled or exceeded the wages earned at the time of the injury). *Compare* MINN. STAT. § 176.101, subd. 3(49) (1976) (compensation based on two-thirds of the *difference* in wages) *with id.* § 176.101, subd. 3(1)-(38) (compensation predicated solely on percentage of the wage earned at the time of injury).

32. *See* 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.21, at 10-38 to -39 (1976). Professor Larson states:

> The ultimate objective of the disability test is, by discounting these variables, to determine the wage that would have been paid in the open labor market under normal employment conditions to claimant as injured, taking wage levels, hours of work, and claimant's age and state of training as of exactly the same period used for calculating the actual wages earned before the injury. Only by elimination of all variables except the injury itself can a reasonably accurate estimate be made of the impairment of earnings capacity to be attributed to that injury.

Id.

33. *See* 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.32 (1976) (post-injury wages should be corrected to reflect any increase in wage levels); McCullough, *Workmen's Compensation—Permanent Partial Disability Benefits—The Dilemma*, 24 U. KAN. L. REV. 627, 634 (1976) (injured claimant's pre-injury wages should be increased by any inflationary factor prior to comparison with claimant's post-injury wages).

34. *See* 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.21 (1976).

35. *See* Whyte v. Industrial Comm'n, 71 Ariz. 338, 346, 227 P.2d 230, 235 (1951) (reduction or increase in earnings due to general business conditions cannot be considered by the commission in fixing the amount of compensation); Maxey v. Major Mechanical Contractors, 330 A.2d 156 (Del. Super. Ct. 1974) (post-injury earnings must be corrected to wage level at the time of injury to compensate for the effect of inflation).

36. *See* DiMezzo v. G. Levar & Co., 281 App. Div. 719, 719, 117 N.Y.S.2d 828, 829 (1952) (part-time wages for jobs ancillary to regular employment are excluded in determination of reduced earnings); Devlin v. Iron Works Creek Const. Co., 164 Pa. Super. Ct. 481, 486, 66 A.2d 221, 224 (1949) (if overtime and double time are included in computation of earnings after the accident they should also be included in pre-injury earnings computations). *But see* Reeves v. Echota Cotton Mills, 123 Ga. App. 649, 182 S.E.2d 126 (1971) (greater number of weekly hours increased claimant's total weekly compensation above the pre-injury level and therefore compensation award was denied despite lower hourly wage caused by the injury).

37. The problem of determining compensation based on the wages of a minor is specifically addressed in MINN. STAT. § 176.101(6) (1976) which reads:

> If any employee entitled to the benefits of this chapter is a minor or is an

by the employer or co-workers.[39] Factors such as these can also have a deflationary effect on the post-injury wage and, in those instances, must be added to the post-injury wage. The elimination of the effects from all variables in the post-wage amount achieves a more just result because the resulting wage amount would correspond more closely to the wage which existed at the time of the injury.

The *Mathison* court indicated that the post-injury wage received by the employee created a presumption of earning capacity[40] but that this presumption was rebuttable. Ostensibly, this presumption can be rebutted by showing variables which would adversely inflate or deflate the wage. In *Mathison,* however, the court specifically refused to reduce the post-injury wage by discounting the general wage level increase that had occurred.[41] The *Mathison* court found no basis for an inflationary adjustment in the Workers' Compensation Act.[42] This position apparently overlooks Minnesota Statutes section 176.645[43] where the legislature has

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> apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or permanent partial disability, for the purpose of computing the compensation to which he is entitled for said injury the compensation rate for temporary total, temporary partial, retraining, permanent partial or permanent total disability shall be the larger of either the statewide average weekly wage or the employees [*sic*] weekly wage, but in no case shall the compensation exceed the maximum weekly compensation rate payable under this chapter.

See also Torres v. Trenton Times Newspaper, 64 N.J. 548, 317 A.2d 361 (1974) (judicial adjustment of wages for a minor/adult wage distinction).

38. *See, e.g.,* Taber v. Tole, 188 Kan. 312, 362 P.2d 17 (1961) (award granted laborer could not be reduced merely because claimant obtained employment as a teacher); State Auto. & Cas. Underwriters v. Reagan, 337 S.W.2d 522 (Tex. Civ. App. 1960) (permanent disability suffered by claimant at age sixteen was not mitigated by subsequent high school and college degrees). *But see* Desrosiers v. Dionne Bros. Furniture, Inc., 98 N.H. 424, 426, 101 A.2d 775, 777 (1953) ("If claimant's wages after injury reflect his actual earning capacity as an injured man and they show no loss in his capacity to earn as compared with his average wage before injury then he is not entitled to compensation . . . .").

39. *See, e.g.,* Raffaghelle v. Russell, 103 Kan. 849, 176 P. 640 (1918) (assistance from fellow employees); Hurwitz' Case, 280 Mass. 477, 182 N.E. 832 (1932) (employer sympathy).

40. ___ Minn. at ___, 243 N.W.2d at 112 ("actual, concrete evidence of earnings is not to be disregarded by the commission and, in fact, creates a presumption of earnings capacity").

41. *Id.* at ___, 243 N.W.2d at 112.

42. The court summarily dismissed appellant's arguments concerning the general wage level rise by stating the legislature did not provide for any adjustment. *Id.*

43. MINN. STAT. § 176.645 (1976) states in part:

> For injuries occurring after October 1, 1975 for which benefits are payable . . ., the amount being paid to the employee by the employer shall on October 1, 1976, and each October 1 thereafter be adjusted by multiplying the benefit payable prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, 21 months prior to the adjustment and the numerator of which is the statewide average weekly wage for December 31, nine months prior to the adjustment.

provided that compensation benefits shall be adjusted annually to reflect inflationary or deflationary economic changes. Although this statutory section addresses the modification rather than the determination of awards, it would seem unreasonable for the legislature to have intended that inflationary factors be considered only after an award is established. This is particularly true when the "loss of earnings capacity" test is used because the inclusion of inflationary factors in the post-injury wage amount may preclude a just award of benefits.

Courts in Delaware[44] and Arizona,[45] as well as the leading authority in the workers' compensation field,[46] have adopted the approach that the effects of all variables should be eliminated from the post-injury wage. Only by an adjustment of this type can an equitable determination of an award be achieved. In *Mathison*, for example, the claimant's wages increased nineteen percent from the date of the injury to the hearing date while inflation during this period increased the average wage, for a position similar to the claimant's, over forty-five percent.[47] Reduction in the post-injury wage by the inflationary factor present during this period may have precluded a denial of compensation.

The only accurate indication of a change in earnings capacity, upon which an award should be predicated, is one in which the sole factor influencing a change in the wages received is the injury. To achieve this, post-injury wages must be adjusted to eliminate inflationary effects, and, in this manner, produce a more accurate analysis of the effect the injury has upon the wages earned. Only in this manner can claimants be assured they will not be denied compensation due to factors beyond their control.

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44. In Maxey v. Major Mechanical Contractors, 330 A.2d 156, 158 (Del. Super. Ct. 1974), the court found the following seven factors should be eliminated from any calculation of the post-injury earnings capacity of the claimant: (1) employer gratuities; (2) increased education and training of the employee; (3) employee working longer hours at lower wages; (4) general increase in the wage scale; (5) wages as an inducement to the employee not to pursue a claim; (6) employee's minority at the time of the injury; and (7) employment after the injury of an uncertain duration.

45. *See, e.g.*, Altamirano v. Industrial Comm'n, 22 Ariz. App. 379, 527 P.2d 1096 (1974) (inflationary factors should be removed from the computation of recoveries for permanent injury).

46. 2 A. LARSON, THE LAW OF WORKMEN'S COMPENSATION § 57.21 (1976).

47. The employee earned $122.50 per week at the time of the injury and approximately $150.00 per week at the time of the hearing. This amounts to a 13% increase in wages. Figures from the Bureau of Labor Statistics indicate that factory wages in Minnesota rose 45% during the period from 1968 to 1974. *Compare Gross Weekly Hours and Gross Weekly and Hourly Earnings*, [1968] LABOR RELATIONS Y.B. 479 (BNA) *with Average Weekly Hours and Gross Weekly and Hourly Earnings*, [1974] LABOR RELATIONS Y.B. 479 (BNA).