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Legal Decisions

By LEO T. PARKER

Some states have compensation laws which do not allow compensation for occupational diseases, such as silicosis. In *Aranbula v. Banner Mining Company*, 161 Pac. (2d) 867, reported January, 1946, an employee in New Mexico sued to recover compensation under the State Workmen's Compensation Act for silicosis. The testimony showed that he acquired silicosis over a period of years, and without the element of excessive exposure and sudden and unexpected occurrence of injury or illness. The higher court held that the employee suffered from an "occupational disease" and not an "injury by accident." Since New Mexico has no law authorizing payment of compensation for occupational diseases the court refused to award the employee compensation.

A careful review of the laws of various states discloses that the following states have laws which allow compensation for occupational diseases: Arizona, Arkansas, Delaware, Idaho, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Utah, Virginia, Washington, and West Virginia.

Michigan and New York amended their statutory silicosis provisions, relating to compensation, in 1943 and 1944. Ohio amended its provisions on silicosis in 1943.

The following states have special provisions, relating to pneumoconiosis, silicosis and asbestosis: Idaho, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Washington, West Virginia, and Wisconsin.

The laws of 15 of the 48 states not only specifically name silicosis, but have special statutory provisions relating thereto.

In the leading higher court case *Victory Sparkler & Specialty Company v. Francks*, 128 A. 635, 638, the court said:

"An occupation or industry disease is one which arises from causes incident to the profession or labor of the party's occupation or calling. It has its origin in the inherent nature or mode of work of the profession or industry, and it is the usual result or concomitant."

If, therefore, a disease is not a customary or natural result of the occupation, the disease is not an occupational disease.

"Injury by accident," as used in the workmen's compensation act, means nothing more than an accidental injury, or an accident, as the word is ordinarily used.

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