PMP:FE-3/7/46

THE FACTS

April 22, 1933 - [redacted] employed as tank truck driver at Esopus, New York, bulk plant, which was moved to Milton, New York in 1935. 1936 medical examination O.K.

May 1, 1937 made a driver salesman.

The duties of a driver salesman may be briefly described as follows: The driver comes to the bulk depot at a fixed time in the morning and ordinarily finds his truck has been loaded by other employees during the night. The driver may, however, assist in loading barrels in the barrel rack. The driver is then given instructions as to the accounts to be visited and the nature of billings to be made whereupon he proceeds on a more or less fixed route contacting customers, most of whom are filling station dealers. At each delivery point the truck is parked so delivery of liquid products can be made through a hose leading from the truck into the underground tanks. The driver makes hose connections and opens the proper tank compartments. If packaged goods are to be delivered, the driver salesman carries them from the truck into the filling station. A case of oil weighing 54 pounds is the heaviest load he is ordinarily required to carry. Barrels of oil are rolled from the truck compartment on to the ground and then over the ground to the place of delivery, but a driver salesman may be required to tip up one end of the barrel of oil, the total weight of which is about 440 pounds. After completing deliveries, the driver salesman returns to the bulk plant and the above type of routine is repeated, except in such cases he will probably be required to supervise the refilling of the tanks on the truck.

According to the complainant, his work consisted of loading the truck with gasoline through an opening about ten inches in diameter. He would stand on the truck in the open air, and not enter a closed shed and would watch the gasoline rise in the truck at intervals. He further stated that he might have

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to load the truck three or four times daily -- 6 days a week, but that his head did not come closer than 1 or 2 feet from the opening.

We are told that the claimant contends that he was required to do very heavy work during long hours. A summary of the hours worked by him during 1941 and 1942 has been prepared. During most of 1941 he worked approximately 40 hours per week, with overtime on a few occasions but never exceeding 51¼ hours. However, during the period from April to September 4, 1942, claimant worked longer hours varying between 40 and 69¼ hours per week, but with a weekly average of approximately 51 hours.

March 18 - April 5, 1940 - [redacted] absent from work. Slipped off truck, leg injured. Had grippe - Dr. Capowski.

October 16-27, 1941 - Lobar pneumonia.

January 24 - March 13, 1942 - Continuously absent from work.

[redacted] was paid Income Protection Insurance benefits for such period; and, in connection therewith, medical certificates were submitted by Dr. Boynton Scott under dates of February 11 and 20, and March 4, 1942. Dr. McKeever submitted a certificate dated March 13, 1942. Dr. Scott diagnosed the condition as "Pleurisy left side" but Dr. McKeever's report shows "Pleurisy right side".

September 26, 1942, claimant noticed "spells in which he became faint and had to pull the truck to the side of the road and stop". Claimant stated he had three or four such occurrences a week; that he had to lie down for fifteen or twenty minutes.

September 27, 1942 - Present disability began.

September 28, 1942 - Dr. A.S.Ferguson first saw claimant, who was complaining of pains in the region of his heart. Dr. Ferguson found some hypertension; and, from his history, considered him a potential cardiac, but his examination was negative.

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October 5, 1942 - X-ray of stomach in Vassar Hospital, Poughkeepsie, (T.28).

November 14, 1942, Mrs. [redacted] wrote Shell re: Income Protection Insurance, stating claimant "has been ill since September 27th" and explained he planned to "go to a hospital for treatment for his stomach".

November 24, 1942 - Dr. William Capowski's diagnosis - duodenitis; possible angina pectoris. Doctor's address Milton, New York. I.P.I. Certificate. Claimant's Exhibit #1.

November 27, 1942 - Dr. Ferguson found some neuritis and some little change in his heart.

December 11, 1942 - Dr. Capowski certified treatment for duodenitis*. Claimant's Exhibit #1.

December 28, 1942 - Dr. C.A. Meekins - Highland, New York. Duodenitis - possible cholecystistis.

January 7, 1943 - Claimant in Kingston Hospital. Records indicate present illness began about September 1942 with an onset of frequent epigastric pains, which were localized in the upper epigastrium, above and to the left of the umbilicus. They would appear at any time of the day, but were aggravated by meals, which they usually followed immediately and were not relieved by soda. Vomiting occurred frequently, mostly in the morning before breakfast, but no blood was observed in the vomitus. Bowel habits had been normal, no change was noted in the appearance of the feces. For three months, the patient had been troubled with a cough, which was mostly non-productive but at times small amounts of blood-streaked whitish sputum was raised. Sputum examinations were said to have been negative.

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* Evidently Capowski advised return to work, but claimant relied on I.P.I.

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January 8, 1943 - X-ray report. Stomach normal type and position. Well outlined. No deformities or filling defects are apparent of the stomach itself. Peristalsis and motility are about normal but the cap does not fill well and shows deformity indicative of ulcer. There is no retention at six hours and the barium has made usual progress. Diagnosis: Duodenal Ulcer.

January 8, 1943 - Dr. Meekins certified gastro-intestinal disease - (Was in Kingston City Hospital for observation and treatment).

January 21, 1943 - Dr. George W. Ross, Port Ewen, New York. Duodenal Ulcer and grippe bronchitis.

February 4, 1943 - Dr. Meekins - cardiac - asthma.

February 19, 1943 - Dr. Meekins - acute respiratory infection - Capillary bronchitis (Bronco-pneumonia). Besides above condition, patient has a chronic abdominal condition. Probably intestinal diverticulitis which has caused continual disability, unknown date.

March 7, 1943 - Dr. Meekins - gastric hyperacidity and pulmonary inflammation.

March 19, 1943 - Dr. Meekins - post respiratory disease - patient also under observation for gastric ulcer.

March 31, 1943 - Dr. Meekins - cardio-renal disease and gastric hyperacidity.

April 16, 1943 - Dr. Meekins - Asthmatic breathing. Exacerbation of bronchial asthma paroxysm of coughing.

April 29, 1943 - Dr. Meekins - gastric hyperacidity chronic emphasema.

May 13, 1943 - Dr. Meekins - chronic hyperacidity and emphasema.

May 28, 1943 - Dr. Meekins-chronic emphasema and gastric hyperacidity.

June 11, 1943 - Dr. Meekins - Lungs and stomach chronic emphasema, hyperacidity. chronic cough - Dyspnea - Pain in stomach and emetalieus indigestion.

June 25, 1943 - Dr. Meekins - Hyperchlorhydria, emphasema and asthma.

July 9, 1943 - Dr. Meekins - hyperchlorhydria and emphasema

July 24, 1943 - Dr. Meekins - Pain in chest on breathing. Asmetic breathing. Pain in pit of stomach, heart burn - (1) Respiratory distress; asmetic breathing. (2) Gastric pain heart burn. Diagnosis: Advanced Emphasema. Advanced Hyperchlordia.

August 10, 1943 - Dr. Meekins - Chronic emphasema; Hyperchlorhydria.

August 25, 1943 - Dr. Ford Brown, Poughkeepsie - cardiac decompensation and asthma.

September 17, 1943 - Dr. Meekins - Cough,asmatic breathing, heart burn; pain in stomach, Dyspuea - Diagnosis: Chronic emphasema, hyperchlorhydria.

September 24, 1943 - Dr. Meekins - Chronic emphasema and hyperchlorhydria.*

October 29, 1943 - Dr. A. Stuart Ferguson,Newburgh,N.Y., examined claimant, who was complaining of weak spells which began with a trembling sensation. He wrote Dr. Capowski that patient showed distinct change from the year before. While no lexicardigram was taken, but there was a change in his heart sound; it was not normal, but the heart impulse was fair. Prescribed digitalis, low caloric diet and rest. No positive diagnosis.

November 18, 1943 - Claimant made demand for Workmen's Compensation benefits, stating "the doctors found I have strained heart muscles due to over work and never again will I be able to do a good day's work. I was unable to continue work as driver salesman because of fainting spells. ** The doctors have been treating me for stomach trouble which was caused from my heart condition."

Claimant's application was supported by a statement of Dr. Julian W. Blakely, Highland, New York; which may be summarized as follows: Date of accident - unknown - Disease symptoms first noted in Spring of 1942. First treated by Dr. Meekins on July 2, 1942. Disability began September 25, 1942. Patient found that he could not work any more. Became very short of breath on the least exertion, was commonly weak and exhausted. Came near fainting several

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* Claimant was paid Income Protection Insurance in sum of $2,080, representing 364 days, the total amount payable under the policy - Foregoing 22 reports made to Travelers Insurance Company.

times. Occupational Disease: Subacute asthma of cardiac origin. Myocardial weakness. Subacute asthma probable cardiac origin due to myocardial decompensation, claimed to be caused by overwork and strain. History of previous disease: Recurrence of a hyperchlohydria acute sperochitosia. Permanent defect. Broken circulatory compensation.

January 26, 1944 - Shell received notification from Workmen's Compensation Division that claim had been presented and requested report.

February 5, 1944 - Shell filed notice that it had no knowledge of any accident; that claimant had advised Shell of alleged strained heart muscles due to overwork; and that claim would be contraverted, contending that claimant did not sustain an accidental injury arising out of and in the course of his employment.

April 10, 1944 - X-ray report by Dr. Ingalls - Chest: There is some hilar thickening with some accentuation of lung markings. The parenchyma of both lung fields is clear. There is no evidence of pleural involvement. The cardiac shadow is within normal limits.

April 14, 1944 - Dr. Frederick W. Holcomb, Shell's physician reported an electrocardiogram suggests some myocardial damages, but no evidence of recent coronary thrombosis.

May 7, 1944 - Fluroscopic examination: heart normal in size and shape. Lung fields are essentially clear with exception of some accentuation of the hilar shadows and lower bronchial markings, but no cardiac enlargement. Blood count shows some increase in the large mononuclear cells, suggesting a possibility of mononucleosis.

May 27, 1944.- Dr. Holcomb's sworn report filed with Commission.

September 8, 1944 - Dr. Ferguson, made a heart examination together with laboratory and x-ray findings, which were made in St. Luke's Hospital during patient's stay in hospital for a week. Had lost considerable weight since October 29, 1943 (159 lbs. as against 184 lbs.). Slight exercise appeared to produce an attack

of angina - Electrocardiogram indicates involvement of the myocardium on a coronary arteris - sclerotic basis and suggests a previous coronary occlusion during the past year. Patient complained of "dizziness", pain across the forehead and distress in the left anterior chest region, which was not associated with any particular effect. He also complained of shortness of breath upon climbing stairs or walking more than two blocks.

APPLICABLE LAW

Article 1 of Section 3 of the Workmen's Compensation Law provides that compensation shall be payable for disability sustained or death incurred by an employee resulting from the following occupational diseases:

"DESCRIPTION OF DISEASES	DESCRIPTION OF PROCESS
24. Respiratory, gastro-intestinal or physiological nerve and eye disorders due to contact with petroleum products and their fumes.	24. Any process involving the use of or direct contact with petroleum or petroleum products and their fumes."