

## WORKERS' COMPENSATION ACT.

During the year sixty-four actions for the recovery of compensation were taken to Court. In twenty-eight of these cases written judgments were delivered, and the following is a summary of same. In four cases the relatives of workers who had been killed by accident were awarded compensation amounting to £575 (assessed by the Court according to the degree of dependancy of the relatives); in ten cases compensation was awarded to workers who had been injured in the course of their employment; and fourteen cases were dismissed. The following decisions are of special interest:—

(1.) In a case where compensation was claimed for injury to an eye the Court awarded the full amount of compensation provided in the schedule to the Act for loss of use of one eye—viz., 30 per cent.\* of the compensation as for total incapacity—although the eye was not completely lost, but was merely rendered useless for the purpose of earning a living. In making this decision the Judge remarked that the general rule to be applied in construing the Act is that the injury for which compensation is given is not mutilation or disfigurement or loss of physical power, but loss or diminution of capacity to earn wages; in the case of the injuries specified in the Second Schedule to the Act, however, the Legislature has provided that certain compensation shall be payable for the loss of the joints or members of the body specified, whether the earning-capacity of the worker be diminished or not. By the 1911 amendment of the Act it was further provided that the expression "loss of" shall, for the purposes of the schedule, be deemed to mean "permanent loss of the use of." In this case the Court ruled that "permanent loss of the use of" the eye meant "for the purpose of earning a living," although the accident had not rendered the eye wholly useless for general purposes. (*Grace v. The Auckland Gas Company*: Vol. xii of Decisions under the Act, p. 10).

(2.) An ironworker claimed compensation for an accident by which he lost the sight of the left eye. Some years previously he had lost the use of his right eye, and it was contended on his behalf that he was now entitled to compensation as for total permanent incapacity in accordance with section 5 of the Act. The Court held that compensation must be assessed not under the ordinary provisions of the Act (section 5), but under the Second Schedule, which fixes compensation for the total loss of the sight of one eye at 30 per cent. of the amount payable in the case of total incapacity. At the time of this judgment the schedule fixed 100 per cent. for the loss of both eyes (or of the use of both of them) but only 30 per cent. for the loss of one eye. The schedule did not, however, meet the cases (*a*) where the two eyes are lost in separate accidents, in which case only 60 per cent. would be payable (not 100 per cent.)†; and (*b*) where the worker having previously lost one eye (as in this case) afterwards loses the second eye. It has been claimed that the percentage payable for the loss of an eye might reasonably be 30 per cent. where the other eye is left uninjured, and 70 per cent. where the worker has had only one eye and has lost same. The fixing of varying percentages for the loss of an eye would, however, lead to other difficulties, and the schedule to the Act was therefore amended, as already stated, by fixing 50 per cent. for each eye. The judgment in this case seems to indicate, too, that, but for the Second Schedule to the Act, whose intention is to afford workers improved claims for compensation, the worker would probably have received full, or nearly full, compensation (100 per cent.) under the ordinary provisions of the Act (section 5) on the ground of total incapacity had the amount of compensation been within the discretion of the Court. (*Hales v. Seagar Bros.*: Vol. xii, p. 42.),

(3.) A worker had met with a series of accidents but only the last of them caused immediate incapacity, and for this accident compensation was duly paid, the plaintiff signing a receipt in full release of his claim. One of the prior minor accidents subsequently developed serious consequences, and the worker proceeded for further compensation. It was contended on behalf of the defendant that the want of a formal notice and the release executed by the plaintiff were a bar to the plaintiff's claim. The Court held that the defence had not been prejudiced by the want of a formal notice, and that the release had been obtained under the stress of the claimant's poverty; also that the bargain was unconscionable and could not be relied on in a Court of equity. Compensation was awarded. (*Murton v. Auckland Harbour Board*: Vol. xii, p. 23.)

(4.) In another case a widow claimed compensation on account of the death of her husband, although the deceased had not contributed to her support for about twenty years. The claim was made under a special provision contained in section 4 of the amending Act of 1911, which states that in the case of a widow the dependancy shall be conclusively presumed to have existed.

\* Now 50 per cent., *vide* Amendment Act, 1913.

† This anomaly has been removed by the Amendment Act of 1913.