

## CLAIMS UNDER WORKERS' COMPENSATION ACT, 1922.

77. Claims under the Workers' Compensation Act constitute an important part of the Office work. The Public Trustee's interest in these matters may arise under any of the following circumstances:—

- (1) Where he is an employer within the meaning of the Act liable to pay compensation :
- (2) Where he is the representative of a deceased employer similarly liable :
- (3) Where he is the representative of a deceased worker :
- (4) Where he is the statutory custodian of compensation moneys payable in respect of the death of a worker :
- (5) Where he is the statutory administrator under the Mental Defectives Act, 1911, of a mental patient's estate and the condition of the patient is the result of causes which create a valid claim for compensation :
- (6) Where he is the custodian of compensation moneys payable to a person who is under the age of twenty-one years, or who is of unsound mind, or who is subject to any other legal disability.

The claims with which the Public Trustee is concerned mainly are those arising under (3) and (4) above—that is, those arising out of the death of a worker, who is defined by the Act as any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether remunerated by wages, salary, or otherwise ; but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds £400 a year.

78. The right to take proceedings for the recovery of compensation on the death by accident of a worker vests in the personal representative of such deceased worker, on behalf of the dependants of the worker ; but where there is no personal representative, or where no proceedings are taken by him within three months of the death of the worker, then the dependants themselves are at liberty to institute proceedings. In regard to each estate administered by the Public Trustee inquiry is made whether death was caused directly or indirectly by an accident. It frequently happens that the immediate cause of death has been a disease or some physical defect, which, however, may have been accelerated by an accident, and appropriate inquiries are made to cover this possibility. Where there are grounds for the enforcement of a claim for compensation under the Act in regard to the death, the Solicitor to the Office takes the necessary steps to enforce the claim.

When the amount of the compensation payable in respect of the death of a worker has been arrived at, the compensation moneys are, unless the Court (the Court of Arbitration) orders otherwise, paid to the Public Trustee in terms of the Act. The moneys are held by the Public Trustee for the persons entitled thereto, or pending an order of the Court apportioning them amongst the dependants. An order of apportionment may be applied for by any of the dependants, or by the Public Trustee at the request in writing of any dependants. If the Public Trustee is not notified within one month of the receipt of the compensation moneys that application is being made for an apportionment order, it becomes the Public Trustee's duty to apply himself for such an order.

It will thus be seen that, unless the Court directs otherwise, the Act constitutes the Public Trustee custodian of compensation moneys payable in regard to the deaths of deceased workers. This capacity of the Public Trustee is totally distinct from that of the executor or administrator of the estate of a deceased worker, and even where the Public Trustee is himself executor or administrator of the estate he receives the compensation moneys in his capacity of statutory custodian. As I have mentioned, however, in the legal representative of the worker vests the right to take proceedings for the recovery of compensation in regard to the death.

79. Once the amount of compensation is determined and paid over to the Public Trustee, the question of its apportionment amongst the dependants has to be settled. In the great majority of cases this is done by application to the Arbitration Court for an apportionment order. As statutory custodian, it is the duty of the Public Trustee to report to and to advise the Court as to the best and most equitable method of apportioning the moneys amongst the various dependants or of otherwise