

AN ACT TO AMEND CERTAIN PROVISIONS OF THE WORKMEN'S COMPENSATION ACT, BEING ACT NUMBERED THIRTY-FOUR HUNDRED AND TWENTY-EIGHT, AND FOR OTHER PURPOSES.

Act No. 3812, December 08, 1930

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Section two of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 2. Grounds for compensation.—When any employee receives a personal injury from any accident arising out of and in the course of the employment, or contracts any illness directly caused by such employment, or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified."

SEC. 2. Section three of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 3. Applicable to Government.—This Act shall also be applicable to mounted messengers in the service of the Insular Government and to the employees and laborers of said Government and of the governments of the provinces, municipalities and all other political subdivisions of the Philippine Islands, employed in the industrial concerns of the Government and in public works."

SEC. 3. The last sentence of section six of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"The sum paid by the employer for compensation or the amount of compensation to which the employee or his dependents are entitled under the provisions of this Act, shall not be admissible as evidence in any damage suit or action."

SEC. 4. The first paragraph and subsection (b) of section eight of Act Numbered Thirty-four hundred and twenty-eight are hereby amended to read as follows:

"SEC. 8. Death benefit.—If the disease contracted or injury received by the employee as provided in section two hereof causes his death within six months from the date of such injury, the employer shall pay the compensation to the persons entitled thereto, and in case there should be none, he shall pay to the person representing the deceased employee the burial expenses not to exceed one hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth, a weekly compensation equivalent to the following percentages of the average weekly wages of the employee, as determined in section nineteen of this Act:

"(b) To the dependent widow or widower in case there are one or two dependent children, fifty per centum, and if there are three or more dependent children, sixty per centum. The compensation to the widow or widower

shall be for the use or benefit of the widow or widower and of the dependent children, and the Bureau of Labor may from time to time adjust the compensation between them in the most suitable manner possible."

SEC. 5. The proviso in the last paragraph of section thirteen of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"Provided, however, That the refusal as well as the kind of disability that would have been the result of the injury if the injured person had accepted such services, shall be set forth in an affidavit made within twenty-four hours after such refusal by the physician called to attend the injured person."

SEC. 6. Section sixteen of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 16. Partial disability.—In case the injury causes partial disability for labor, the employer, during such disability and except as hereinafter provided, shall pay to the injured employee for a period of not to exceed two hundred and eight weeks, beginning with the first day of disability, a weekly compensation equal to fifty per centum of the difference between his average weekly wages before the accident and the weekly wages which he could probably earn thereafter; but not more than ten pesos per week. The weekly payments shall not in any case continue after the disability has ceased, and in case partial disability sets in after a period of total disability, such period of total disability shall be deducted from the total period of two hundred and eight weeks and the amount of the compensation paid shall not in any case be in excess of the total sum of three thousand pesos. No award for disability shall be made before a lapse of two weeks counted from the date of the injury."

SEC. 7. The sixteenth paragraph of section seventeen of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 17. Permanent partial disability.—In the case of disability which is partial in its nature but permanent in its duration, the compensation shall be fifty per centum of the average weekly wages and shall be paid to the employee for the periods designated in the following schedule: "For the loss of an eye, one hundred weeks."

SEC. 8. Section twenty-two of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 22. Payments in a lump sum.—Whenever the parties consider it most advantageous and convenient, the liability of the employer as regards the compensation may be discharged totally or in part by payment in a lump sum or sums as may be the case, under the condition that if the sum or sums to be paid are less than that fixed by the law, the reduction shall not be more than twenty per centum: Provided, however, That any agreement or contract made for this purpose between the parties shall not be valid unless it be in conformity with the provision of this section in so far as the amount of compensation is concerned, and be made in the form of a public document acknowledged before the justice of the peace of the locality and attested by two witnesses, one of whom shall be the municipal treasurer or the person acting in his stead if the agreement is entered into outside the City of Manila; and if in the City of Manila, before a duly authorized notary public, attested likewise by two witnesses, one of whom shall be the Director of Labor or his representative. Before the acknowledgment of the instrument, the justice of the peace or notary public, as the case may be, shall fully inform the injured laborer or dependent person or persons executing the instrument in his stead, of all their rights and privileges under this Act, reading and translating to them into the vernacular dialect they know in case they do not understand English or Spanish, the provisions of this Act establishing the amounts and periods of compensation and other privileges to which they are entitled by reason of the accident, and shall certify in the acknowledgment clause that all these requisites have been complied with. The expenses of the acknowledgment of the contract shall be borne by the employer. The justice of the peace or notary public, as the case may be, shall forward a certified copy of the contract to the Bureau of Labor in Manila for file."

"Any failure on the part of the employer to comply with his obligation to pay any of the sums due to the injured laborer or his dependents in accordance with this Act, shall entitle the beneficiary to claim the entire balance of the compensation at one time."

SEC. 9. Section twenty-nine of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 29. Agreement on compensation.—In case the employer and the injured laborer or the dependent or dependents entitled to compensation arrive at an agreement concerning the compensation provided for by this Act, such agreement, in order to be valid, shall be in the form of a public instrument acknowledged before the justice of the peace of the locality and attested by two witnesses, one of whom shall be the municipal treasurer or the person acting in his stead if the accident occurred outside the City of Manila; and in the City of Manila before a duly authorized notary public, attested likewise by two witnesses, one of whom shall be the Director of the Bureau of Labor or his representative. Before receiving the acknowledgment of the instrument, the justice of the peace or notary public, as the case may be, shall fully inform the injured laborer or dependent or dependents executing the instrument in his stead, of all their rights and privileges under this Act, reading and translating to them into the vernacular dialect they know, in case they do not understand English or Spanish, the provisions of this Act establishing the amounts and periods of compensation and other privileges to which they are entitled by reason of the accident, and shall certify in the acknowledgment clause that all these requisites have been complied with. The expense of the acknowledgment of the contract shall be borne by the employer. The justice of the peace or notary public, as the case may be, shall forward a certified copy of the contract to the Bureau of Labor in Manila, for file: Provided, however, That the employer shall be exempt from all liability under this Act as soon as the compensation has been paid in accordance with this section, saving the provisions of section six of this Act."

SEC. 10. Section thirty-one of Act Numbered Thirty-four hundred and twenty-eight is hereby amended by adding at the end of said section the following proviso:

"Provided, That in case a laborer who suffers an accident or contracts an illness comprised within the provisions of section two of this Act, or his dependents, contract the services of a lawyer or other persons to help him or direct him in his claim for compensation against his employer before the office of the Director of Labor, the fees of said lawyer or person shall not be more than five per cent of the total sum which said injured or sick laborer or his dependent in case of his death shall receive by way of compensation; but if his services shall take place before a court of justice, his fees shall not be in excess of ten per centum of said sum, and any person who, in violation of this proviso, makes an excessive charge, shall be punished by a fine of not more than two hundred pesos."

SEC. 11. The third and fourth paragraphs of section thirty-seven of Act Numbered Thirty-four hundred and twenty-eight are hereby transposed so that the third paragraph shall be the fourth, and a proviso is added to said third paragraph of the present Act, making the entire section read as follows:

"SEC. 37. Notice of accidents by employers.—Each employer shall hereafter keep a record of all injuries, whether fatal or not, received by his employees in the course of their employment, when the same come to his knowledge or attention. As soon as possible after the occurrence of an injury resulting in absence from work for a day or more, the employer shall give written notice thereof to the Bureau of Labor on blank forms especially prepared by said Bureau, for which the employer shall make requisition in due time, or in case of necessity or emergency, or for lack of forms, on any other paper, containing the information hereinafter prescribed.

"The notice shall set forth the style and nature of the business of the employer, the location of the establishment, the name, age, sex, wages, and occupation of the injured employee, the date and hour of the accident resulting in the injury, the nature and cause of the injury, and such other information as may be

required by the Bureau of Labor.

"Not later than sixty days after the termination of the disability of the injured employee, the employer or other person liable for the payment of the compensation provided for in this Act shall file with the Bureau of Labor a statement of the total payments made or to be made for compensation and for medical services to the injured person.

"Any employer refusing or neglecting to give the notice required by this section shall be punished by a fine of not more than twenty-five pesos for each offense: Provided, That in the case of firms or corporations, the president, directors or managers, thereof shall be criminally liable for each violation, or in default thereof, the person who directly or indirectly take their place in the management, direction or administration of the business."

SEC. 12. Section thirty-eight of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 38. Interisland trade.—This Act shall cover the liability of the employers towards employees engaged in the coastwise and interisland trade, and also in the foreign trade when such is permissible under the laws of the United States and the Philippine Islands."

SEC. 13. Subsections (a), (b), (d), and (e) of section thirty-nine of Act Numbered Thirty-four hundred and twenty-eight are hereby amended to read as follows:

"(a) 'Employer' comprises every association of persons, incorporated or not, public or private, and the legal representative of the deceased employer. It comprises the owner or lessee of a factory or establishment or place of work or any other person who is virtually the owner or manager of the business carried on in the establishment or place of work but who, for the reason that there is an independent contractor in the same, or for any other reason, is not the direct employer of laborers employed there.

"(b) 'Laborer' is used as a synonym of 'employee' and means every person who has entered the employment of, or works under a service or apprenticeship contract for an employer. It does not include a person whose employment is purely casual and is not for the purposes of the occupation or business of the employer, or whose remuneration paid by any employer, exclusive of overtime pay, is in excess of forty-two pesos a week. Any reference to a laborer injured shall, in case he dies, include a reference to the persons dependent on him, as defined in this Act, if the context so requires, or, if the employee is a minor or incapacitated, to his guardian or nearest of kin.

"(d) 'Industrial employment' in case of private employers includes all employment or work at a trade, occupation or profession exercised by an employer for the purpose of gain, except agriculture, charitable institutions, and domestic service, but as to agriculture, employees for the operation of mechanical implements shall be entitled to the benefits of this Act.

"(e) 'Public employment' signifies employment in the service of the Insular Government or the government of any province, municipality or other political subdivision of the Islands. It does not include employment as public officer elected by the popular vote nor persons paid more than two thousand pesos per annum."

SEC. 14. Section forty-two of Act Numbered Thirty-four hundred and twenty-eight is hereby amended to read as follows:

"SEC. 42. Law applicable to small industries.—All claims for accidents occurring in a trade, occupation or profession exercised by an employer for the purpose of gain, the gross income of which during the year next preceding the one in which the accident occurred was less than twenty thousand pesos, shall be governed by the provisions of Act Numbered Eighteen hundred and seventy-four and its amendments."

SEC. 15. This Act shall take effect on its approval.

Approved, December 8, 1930.

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