Legislation Affecting Workmen's Compensation

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Five amendments to the Louisiana Workmen’s Compensation Act were made by the 1956 session of the Legislature. All except one of these increased the benefits accorded injured workers and the families of those who were killed. Most important was the increase of the maximum weekly compensation from thirty to thirty-five dollars per week. Second, the maximum period for the payment of death benefits was increased from three hundred to four hundred weeks, so that it now corresponds to the period for which total disability payments are payable. In addition, medical benefits were raised from their former maximum of $1,000.00 to a maximum of $2,500.00, and the maximum allowance for funeral and burial expenses was increased to $600.00.

All the above increases are in line with legislative tendencies throughout the country. Twenty-three states have increased the maximum allowable weekly compensation within the past two years. Our new maximum of thirty-five dollars places Louisiana among the more liberal states. Other statutes establishing the same maximum are those of the District of Columbia, Florida, Hawaii, Minnesota, Missouri, and South Carolina. The same is true under the Federal Longshoremen’s Act. However, our maximum of thirty-five dollars is exceeded in Connecticut ($40.00), New York ($36.00), and Wisconsin ($42.00). In still other states the maximum varies with reference to the number of dependents. In many of these states the maximum may exceed thirty-five dollars:

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2. La. Act No. 411 of 1956, amending La. R.S. 23:1202 (1950). The amendment also increased the minimum weekly compensation from three dollars to ten dollars per week. This latter change may conceivably have an adverse effect upon the compromise of small claims.


Other features make comparisons undependable. For example, in an increasingly large number of states compensation for permanent disability is payable during the entire life of the victim if he remains disabled for that long. Nevertheless, we can view our own scale with considerable satisfaction.

In 1914, the maximum weekly compensation was established at $10.00. By 1918, the cost of living had increased by twenty-six percent; but in that year the maximum allowable compensation was increased by sixty percent — a net gain of thirty-four percent in buying power for the worker and his family. By 1920 the cost of living had again increased 31 percent. In that year the maximum rate of compensation was increased by only twelve percent, resulting in a loss of ground. But the period between 1920 and 1924 actually witnessed a drop in the cost of living and a corresponding increase of fourteen percent in the value of the worker's dollar. Nevertheless, in 1924 the maximum allowable weekly compensation was increased by eleven percent, resulting in a net gain of twenty-five percent for the worker and his family. Then followed a period of twenty-four years (1924-1948) during which the weekly maximum was not disturbed by the Legislature. During that time the cost of living varied up or down substantially. By 1948 it had increased twenty-eight percent over what it was in 1924. But in that year the maximum weekly compensation was increased by the Legislature by fifty percent (from twenty to thirty dollars), resulting in a net gain of twenty-two percent in buying power for the worker. During the eight intervening years between 1948 and the most recent increase in 1956, the cost of living continued its upward swing, this time by about ten percent. Our most recent legislative increase last June placing the maximum at thirty-five dollars per week results in a net gain of six percent in buying power for the injured worker over what he enjoyed in 1948.

The above figures are, of course, somewhat deceptive, for it is assumed that all injured workers are receiving the maximum weekly allowable compensation. This situation is not likely to

<table>
<thead>
<tr>
<th>State</th>
<th>Range</th>
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<tbody>
<tr>
<td>Idaho</td>
<td>$23.00 - 40.00</td>
</tr>
<tr>
<td>Illinois</td>
<td>29.00 - 38.00</td>
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<tr>
<td>Michigan</td>
<td>32.00 - 40.00</td>
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<td>31.50 - 45.50</td>
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<td>Oregon</td>
<td>18.46 - 51.92</td>
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prevail extensively except at times when wages have been increased to a relatively high point in the light of the then prevailing maximum allowable compensation. It must be borne in mind that each legislative increase in the weekly maximum affects a decrease in the percentage of injured workers whose compensation will be subject to the maximum.

The increase in the maximum period for the payment of death benefits to four hundred weeks serves to establish the same period for both disability and death benefits. We can only speculate as to why death benefits were originally payable for only three hundred weeks, while benefits for permanent total disability have always been established for a maximum period of four hundred weeks in this state. Possibly it was thought that the family that was obliged to support the injured family head was in greater need than the widow and orphans of a deceased worker. Whatever validity this notion may have had at one time, it can hardly be regarded as a faithful picture under the present definition of total disability evolved by our courts.

A further change was effected in the death provisions. Formerly, compensation could be awarded only if death occurred within one year from the date of accident. This period has now been increased to two years. The writer is tempted to doubt that there ever was any need for the establishment of an arbitrary period within which the death must occur following the accident. Usually the existence or non-existence of a causal relation between the accident and death can be satisfactorily established by medical testimony. There seems to be little reason in civil litigation for a restriction similar to the year and a day rule that prevails generally in criminal law, and few states have such a provision in their compensation statutes.