

GETTING MONEY AFTER AN ACCIDENT AT WORK



WHAT IS WORKMEN'S COMPENSATION?

Every minute a worker in South Africa gets hurt in an accident at work. Every two hours a worker dies. Workers still have a long way to go in the fight for a safe work place.

Workers in this country do not have many rights. So they must make the most of the few rights they have. One of these rights is getting some money after they get hurt at work. They get this money from a big fund in Pretoria. The fund is called the Workmen's Compensation Fund.

This fund gives money to workers who get hurt at work. And this fund gives money to a workers' family if the worker dies.

The Workmen's Compensation Fund also gives money to workers who get sick from their work. For example, a worker may get a lung disease from too much dust, or a worker may go deaf from a loud machine. But very few workers get money if they get sick from work — because it is very hard to prove.

There is over a 100 million rand in the Fund. But workers do not get much of this money. Workers will only get part of the wages they lose while they are off work. They don't get anything for pain and suffering. And even then, the money often takes a long time to come.

In this poster, you can only read about how to get money after an accident at work. We will not tell you how to get money if you get sick at work. Workers who get sick from work need help from their union, an advice office, or a doctor and a lawyer.

Some workers do not get their money from the Workmen's Compensation Fund in Pretoria. These workers get their money from private insurance companies. For example, workers in the building industry get money from a company called Federated Employers. Workers in the mines get money from Rand Mutual.

But workers get their money from these private companies and other funds in the same way they get money from the Workmen's Compensation Fund. The rules are the same.

WHO CAN GET MONEY FROM WORKMEN'S COMPENSATION?

Nearly all workers who earn less than R1 300 a month can get money from the Workmen's Compensation Fund. Even workers who are not registered can get money from the Fund after an accident. But domestic workers, who suffer nearly worst of all, can't get any money from the Fund.

The fund will only pay workers if they get hurt in accidents when they are doing something that is part of their jobs. They will only get money if they are hurt on duty. The law says that workers will only get money if they are hurt "in the course and scope of duty".

For example: A worker goes in a truck to deliver some goods. On the way the truck gets stuck. The worker decides to go to a friend's house to borrow some tools. On the way to his friend, the worker gets knocked down by a car. This worker will get money from the Fund because the worker got hurt doing his job. He was trying to make sure that he delivered goods.

For example: A worker leaves the factory at lunchtime to go buy some food. On the way to the shop the worker gets knocked down by a car. This worker can't get money from the Fund because the worker was not hurt while she was doing her job.

As long as you get hurt while doing your job, you can get money from the fund. The fund will not ask whose fault the accident was. Even if the accident was the worker's fault, the worker can still get money from the Fund. If the accident was the boss' fault, the worker can't sue the boss in court. So bosses do not have to worry too much.

WHAT DOES WORKMEN'S COMPENSATION PAY FOR?

The Fund makes four kinds of payments to workers:

1. The Fund pays part of your wages while you are off work after an accident. The Fund won't pay anything after you go back to work. This is called **Temporary Disability Payment**.

The Fund only pays workers a few months after the worker goes back to work. Many bosses pay workers while they are off work — and then get the money back from the Fund.

2. If a part of your body does not heal properly after an accident, the Fund will pay you for that damage. You may lose part of your body or maybe a part of your body won't work properly after an accident. This is called a **Permanent Disability Payment**. You will get a lump sum payment or a pension every month.

3. If a worker dies in an accident at work, the Fund will pay a small lump sum to the worker's wife — or to the woman the worker lived with. The Fund will pay a pension to the wife and to children who are under 18 years old. The Fund will also pay for the funeral. These payments are called **Death Benefits**.

If a woman worker dies, the Fund will only pay the husband and children if the husband is too sick to work. They will not pay the husband if he is healthy — even if he has no job.

Some workers support other people — like a mother or father, brother or sister. These people can sometimes also get money from the fund — but only if they get no money from anybody else.

4. The Fund will pay for all medical expenses after an accident. The Fund will pay all hospital and doctors fees. It will pay for all medicines and it will pay any ambulance fees.

HOW MUCH DOES WORKMEN'S COMPENSATION PAY?

TEMPORARY DISABILITY PAYMENT:

If you are off work after an accident, you will get three quarters of your wages from the Fund. But you will only get money from the Fund for the time the doctor tells you to stay away from work.

If you are off work for less than two weeks, the Fund will not pay you for the first three days. Your boss must pay you for the first three days. The three days will be part of your sick leave.

For example: A worker who earns R360 a month has an accident and stays off work for eight days. The fund will not pay the worker for the first three days. They will only pay the worker for the five days. They will work out how much the worker earns each day. If the worker earns R15 a day the worker will get R75 from the Fund.

For example: A worker who earns R500 a month has an accident and stays off work for two months. The worker will get three quarters of two months' wages. The worker will get R750 from the Fund.

The Fund will pay three quarters if you earn less than R600 a month. If you earn more, the Fund will pay three quarters up to R600 — and then half of the rest of your wage.

PERMANENT DISABILITY PAYMENT:

The Fund has a way to work out how badly you are hurt. For example, if you lose a hand or all the fingers on a hand, the Fund will say you have a 50 per cent disability. If you lose an arm from the shoulder or a leg from the hip, you will have a 65 per cent disability. If you lose an eye, you will have a 30 per cent disability. If you lose all the toes on one foot, you will have a 15 per cent disability.

If you get badly hurt but do not lose a part of your body, the Commissioner at the Fund will work out how badly you are hurt. For example, if you hurt your hand and your hand is useless, you will get the same as a worker who loses a hand. If you can use your hand a little, you will get less money. The Commissioner works it out.

If you have a 30 per cent disability or less, you will only get a lump sum. If you have more than a 30 per cent disability, you will get a pension every month.

HOW MUCH WILL THE LUMP SUM BE? The Fund has a special way to work this out. It works it out like this:

$$15 \times \text{monthly salary} \times \text{percentage disability} = \text{lump sum.}$$

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For example: A worker lost his thumb in an accident at work. The Fund says that if you lose a thumb, you will have a 25 per cent disability. The worker was earning R250 a month. How much will the worker get?

$$15 \times 250 \times 25 = 3125$$

The worker will get R3125 from the Fund.

The Fund will not count anything you earn over R600 a month. If you earn R800 a month, the Fund will say you earn R600 a month when they work out the lump sum.

HOW MUCH WILL THE PENSION BE? The Fund works it out like this:

$$\frac{1}{2} \times \text{monthly salary} \times \frac{\text{percentage disability}}{100} = \text{monthly pension.}$$

For example: A worker had a very bad accident at work. The worker lost an arm and a leg. The Fund says this is a 100 per cent disability. The worker was getting R400 a month when she had the accident. How much pension will she get?

$$\frac{1}{2} \times 400 \times 100 = 300$$

 The worker will get a R300 pension every month.

For example: A worker lost her arm below her elbow in an accident. The Fund says this is a 55 per cent disability. She was getting R160 a month. How much pension will she get?

$$\frac{1}{2} \times 160 \times 55 = 66.$$

 She will get R66 pension every month.

If you earn more than R600 a month, the Fund will use three quarters of your wage up to R600 when they work out the pension. They will only use half of your wage over R600.

If you are less than 26 years old, the Fund will ask your boss how much you would earn when you are 26 years old. They will then use this amount to work out your lump sum and pension.

DEATH BENEFITS:

If you die in an accident at work, your wife will get a small lump sum and then a pension every month until she dies. If a woman worker dies, her husband will get the same — but only if her husband is too sick to work.

Your children will also get a pension every month until they are 18 years old. If a woman worker dies, her children will only get a pension if they do not have a father to look after them — or if their father is too sick to work.

How much will the wife get? Firstly, the wife will get a lump sum. The lump sum will be R600 or twice her husband's monthly wage — whatever is the lesser amount. And the wife will get 30 per cent of his wages every month as a pension.

For example: A worker who was earning R500 a month died in an accident. His wife will get a R600 lump sum payment. And she will get a pension of 30 per cent of his wage. She will get a pension of R180 a month.

How much will the children get? Each child will get 15 per cent of their father's wage until they are 18 years old. But together the family will not get more than the 75 per cent of the worker's wage every month.

For example: A worker who earned R400 a month died in an accident at work. The worker left a wife and three children. Two children were under 18 years old. Firstly, his wife will get a lump sum of R600. Then she will get a monthly pension of 30 per cent of R400. She will get R120 every month. The children under 18 years old will each get 15 per cent of their father's wage. So each child will get R60 a month. The child over 18 years old will get nothing.

For example: A worker who earned R300 a month died in an accident at work. The worker's wife was left with six children all under the age of 18 years. Firstly, the wife will get a lump sum of R600. Then she and her children will only get 75 per cent of R380 a month. They will get R225 a month from the Fund. And they will not get more as the cost of living goes up!

If you earn more than R600 a month, your wife will not get a pension of 30 per cent of your wage. She will get a bit less. Your children will also get a bit less than 15 per cent of your wage.

Funeral Costs: The Fund will pay up to R600 for the funeral costs if a worker dies in an accident at work.

WHAT MUST YOU DO AFTER AN ACCIDENT AT WORK?

If you get hurt in an accident at work, you must make sure that your boss knows about it. If you are too hurt, ask a fellow worker or a friend to tell the boss. Make sure your boss has your full name and correct address.

Your boss must know about the accident because he must fill in a form and send it to the Workmen's Compensation Fund. This is the first form you need. It is the boss' report of the accident. The form is also called the CL100.

Try to remember who saw the accident. If there is a problem later, you may need witnesses.

If you have time after the accident before you go to the doctor, get some proof from your boss that you were hurt at work. Ask him for part B of the employer's report. If he has not filled it in yet, ask him for a letter. The letter must say that you were hurt at work.

When you see the doctor, ask him if he is a Workmen's Compensation doctor. The doctor will fill in a form when he sees you. This is the second form that you need. This form is called the First Medical Report — or the WCL4. The doctor sends this form to the Fund.

When the doctor says you are better, the doctor will fill in another form. This is the third form you need. This form is called the Final Medical Report — or the WCL5. This form tells the Fund how long you were off work. The Fund will also decide how much to give you from this form.

When you go back to work, your boss must fill in another form. This is the fourth form that you need. This form is called the Resumption Report — or the WCL6. This form tells the Fund if your boss gave you any money while you were off sick.

If you are not very badly hurt and have a temporary disability, the doctor will tell you when you must go back to work. You will not get any money from the Fund until the Fund gets all four forms — two from your boss, and two from the doctor.

If you are badly hurt and have a permanent disability, the doctor will not tell you straight away when you must go back to work. The doctor will not be sure when you will be better. Each time the doctor sees you, the doctor will fill in a progress report and send it to the Fund.

If you have a permanent disability, you will only get your lump sum or pension when the Fund has the four forms. But you can get some money from the Fund before they get all the four forms. This is called Interim Payment. If you want

an interim payment, you must send another form to the Fund. This form is called an affidavit — or a WCL132. You can get these forms from the Labour Department, a magistrate's office, a union office, or an advice office.

Your boss must fill in the forms if you have an accident. It is the boss' duty. But if your boss does not fill in the forms, you can report the accident yourself to the Fund. You will need two forms. First you must fill in a form called the WCL3. This is the worker's report of the accident. You must also fill in an affidavit (WCL132). If some of your fellow workers saw the accident, you will need them to be witnesses. They must also fill in affidavits. All affidavits must be signed by a commissioner of oaths at a post office, a police station, or a magistrate's office.

Getting money from the Fund is not easy — and it takes a long time to come. If you have problems getting money from the Fund, try to get some help from your union. If you are not a member of a union, go to an advice office for help.

IF A WORKER DIES IN AN ACCIDENT, WHAT MUST THE FAMILY DO?

If a worker dies in an accident at work, the family must go to or phone the company. If the family lives far away, they can write a letter to the company.

Speak to the boss at the company. Or speak to the personnel officer or wage clerk — they are very helpful most of the time. Ask the company if they have sent the forms to the Fund. And ask the company for the forms that you must fill in. If they do not have these forms, you can get them from the Labour Department or from the Fund in Pretoria.

Send the dead worker's death certificate or burial certificate to the Fund in Pretoria. Send the worker's reference book if you have it.

The worker's wife must send her marriage certificate. Send the children's birth or baptismal certificates. If you do not have these, you must send affidavits saying that the children belonged to the dead worker.

And after the funeral, you must fill in a special claim form and send all the receipts to the Fund. They will pay you back for the funeral. But they will not pay you more than R600.

REMEMBER: ONLY SEND COPIES OF ALL THE CERTIFICATES AND RECEIPTS TO THE FUND. DO NOT SEND THE REAL CERTIFICATES BECAUSE THEY MAY GET LOST. MAKE COPIES OF ALL YOUR CERTIFICATES. ALL COPIES MUST BE SIGNED BY A COMMISSIONER OF OATHS AT A POST OFFICE, POLICE STATION, OR MAGISTRATE'S COURT.

If you need help getting money after a worker dies, do not go to a lawyer. Lawyers can be expensive. Try to get help from a social worker or the commissioner or magistrate in your area.

PROBLEMS WITH WORKMEN'S COMPENSATION

WORKERS GET FIRED: Many workers get fired after they have an accident at work — or after they get sick from work. Many bosses will not wait for the worker to get better. The law does not stop a boss from firing a worker after an accident or after the worker gets sick. The boss can just give the worker notice pay and fire the worker.

Most unions and advice offices believe that the law must be changed. The boss should be forced to give workers back their jobs after an accident — or if the worker gets sick. Workers need jobs more than the little money they get from the Fund.

THE MONEY IS NOT ENOUGH: The Fund does not pay workers enough money. The Fund should pay workers much more money.

When workers or their families get a pension from the Fund, the pension does not go up with the cost of living. It stays the same.

Most workers who are badly hurt and who have a permanent disability won't find work again. But the Fund only pays these workers for bits of their body. If they lose a finger they will get so much, if they lose a hand they will get so much, and so on. Workers must not just get cash for parts of their bodies. They must get paid a lot more if they can't find jobs again.

Often doctors are not careful when they examine workers after accidents. They make mistakes when they decide how hurt a worker is. The Fund will believe the doctor — and the worker will get less money.

Workers often wait a very long time for money after an accident. They should not wait for this money. They should get the money straight away.

WORKERS GET NO HELP: It is not easy to get money from the Fund. There are a lot of forms and many workers have problems with these forms. The Fund does not have places where workers can go for help.

Many unions say that the Fund most often believes the bosses' story of how the accident happened — and not the worker's story. Sometimes workers will not get money because of this.

The Workmen's Compensation Fund does not force bosses to make jobs safe for their workers. Bosses know the Fund will pay workers out if they have an accident. And so bosses do not have to worry too much about the safety of their workers.

The end