

Short notes on:

INJURIES OR ILLNESSS SUSTAINED AT WORK UNPACKED

Introduction

I will refer to the Compensation for Occupational Injuries and Diseases Act Number 130 of 1993 as “COIDA”.

An injury at work can be highly stressful, specifically in the context of the current economic climate, this can ravage livelihoods and the fact that not all persons have disability insurance cover, which may have lasting adverse effects. Many perceive COIDA as a means to recover significant amounts of damages to the same extent one can sue the Road Accident for large sums. The problem is however that this statement could not be farther from the truth as COIDA takes notoriously long to pay claims and does not cover prospective damages for pain and suffering and the like.

COIDA creates a statutory insurance framework, a compulsory insurance through which all employers are covered against claims of all employees, casual and full time whom are ill, injured, disabled or died as result of a workplace related incident which occurred in their course and scope of their employment. Worth noting all employers doing business in South Africa must register with COIDA, the State will determine their contribution by assessing the category of the employer, the history of workplace-related incidents, this will determine the contribution to be made by the employer.

The following employees are excluded from cover under the COIDA

1. Workers who are totally or partially disabled for less than 3 days and domestic workers.
1. Anyone receiving military training.
2. Members of the SANDF, or SAPS.
3. Any worker guilty of wilful misconduct, unless they are seriously disabled or killed.
4. Anyone employed outside South Africa for 12 or more continuous months, an.
5. Workers employed mainly outside South Africa and only temporarily employed here.

The claims process

Once an employee suffers from a work-related injury, such incident must be reported either verbally or in writing to the employer within a reasonable time period from the date on which the incident occurred. Subsequently, the employer must report the incident to COIDA within 7 days from becoming aware of the incident.¹ COIDA will then investigate and assess the extent of damages, this may entail assessment by medical experts, and any award will be based on the salary of the employee, risk profile of the work at the time of the incident, severity of the injuries, the minimum and maximum amounts payable and past injuries suffered.

Chapter five of COIDA provides for the following benefits²

1. Compensation for employee undergoing training or under the age of 26 years.
2. Payment of lump sum in lieu of pension.
3. Compensation to an employee previously in receipt of compensation.
4. Compensation when employee dies.
5. Increased compensation in the case of negligence on the part of the employer.
6. Compensation for Occupational Deceases

Dependants

If the employee dies as a result of an injury incurred in the course and scope of employment, then the dependant of such an employee will be entitled to claim from COIDA in the form of loss of support which will be limited to the assessment of salary of the deceased and reasonable funeral expenses.

When will an employee be unable to claim

The employee will not be able to claim if you intentionally misrepresent the COIDA on any material fact such as prior injuries or claims which may affect the assessment of the employee's risk profile. The COIDA may decide in such an instant not to entertain the employee's claim. Should the employee suffer damages as a result of bodily injuries sustained in a motor vehicle as a result of the negligent driving of a motor vehicle in the course and scope of employment; such employee shall be

¹ Section s38 and 39 of COIDA

² Chapter 4 of COIDA

entitled to claim from COIDA and the RAF at the same time in some instances. Worth noting is the amount awarded by the COIDA will be deducted from the amount awarded by The Raf.

Conclusion

The COIDA is accessible to all, but claimants can benefit from legal advice to best equip them for the process of ensuring the best possible outcome of their claim.

Call us at Schoemanlaw Inc for more information.