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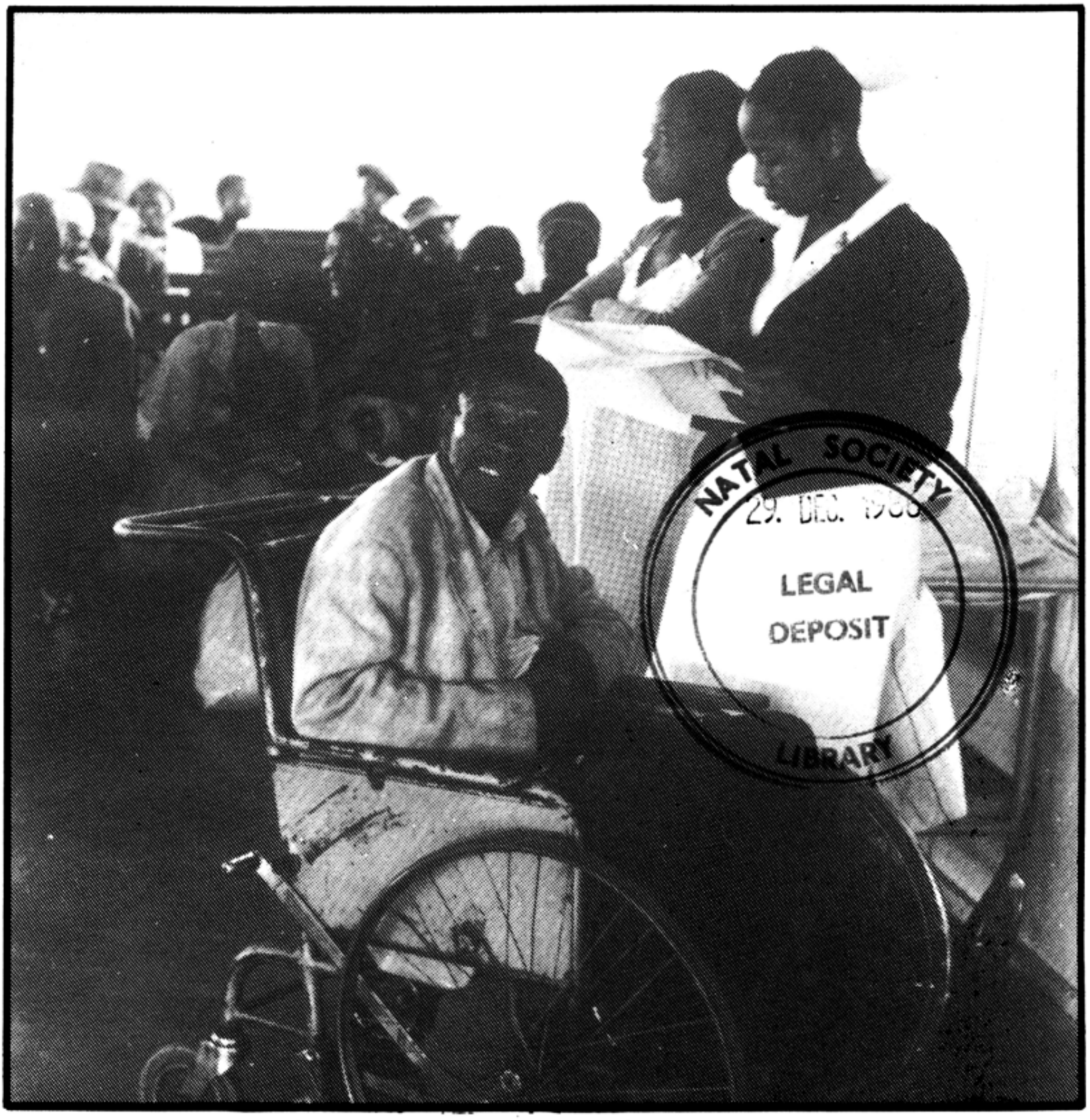
Critical Health

Number 18 December 1986



COMPENSATION:

The healthworker's contribution

Critical Health

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CONTENTS

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EDITORIAL

The disaster at Gencor's Kinross mine on 16 September this year, in which 177 miners died and 235 were injured, once again highlights the hazardous working conditions under which the majority of South African workers labour. They are made to pay the price of profits in a different currency: their lives and limbs. Even though the inquiry has not yet been held, it has already become clear that Gencor knew the risks involved in the underground use of polyurethane foam, but did not take adequate safety precautions.

The Kinross disaster occurred (almost to the day) three years after the methane gas explosion at Hlobane Colliery, in which 68 miners died. The inquest held after this "accident" pointed to gross negligence of safety precautions: breaches of regulations, faulty machinery, lax management, and inadequate measures to detect and prevent the accumulation of methane gas.

With regard to preventable accidents such as these, the question arises: how can managements of industrial enterprises afford the workers' loss of life and limb on this scale? The answer to this question, as the first two articles in this issue of CRITICAL HEALTH argue, lies partly in the fact that South Africa's social security legislation does sufficiently obligate employers to provide safer working conditions. It appears that human life is regarded as cheaper than the costs involved in upgrading safety measures.

Furthermore, the provisions and the implementation of the two workers' compensation acts in South Africa (the Workmen's Compensation Act and the Occupational Diseases in Mines and Works Act) imply that some lives are regarded as cheaper than others. Where the Acts have omitted overt racial discrimination in their wording, discrimination on the basis of race and class is nevertheless effected through the fact that compensation is paid as a percentage of wages - which discriminates against (mostly black) low-paid workers. The second formula used in the calculation of compensation amounts is the percentage of disability incurred as a result of injury or disease. This formula does not realistically account for re-employability of the workers concerned.

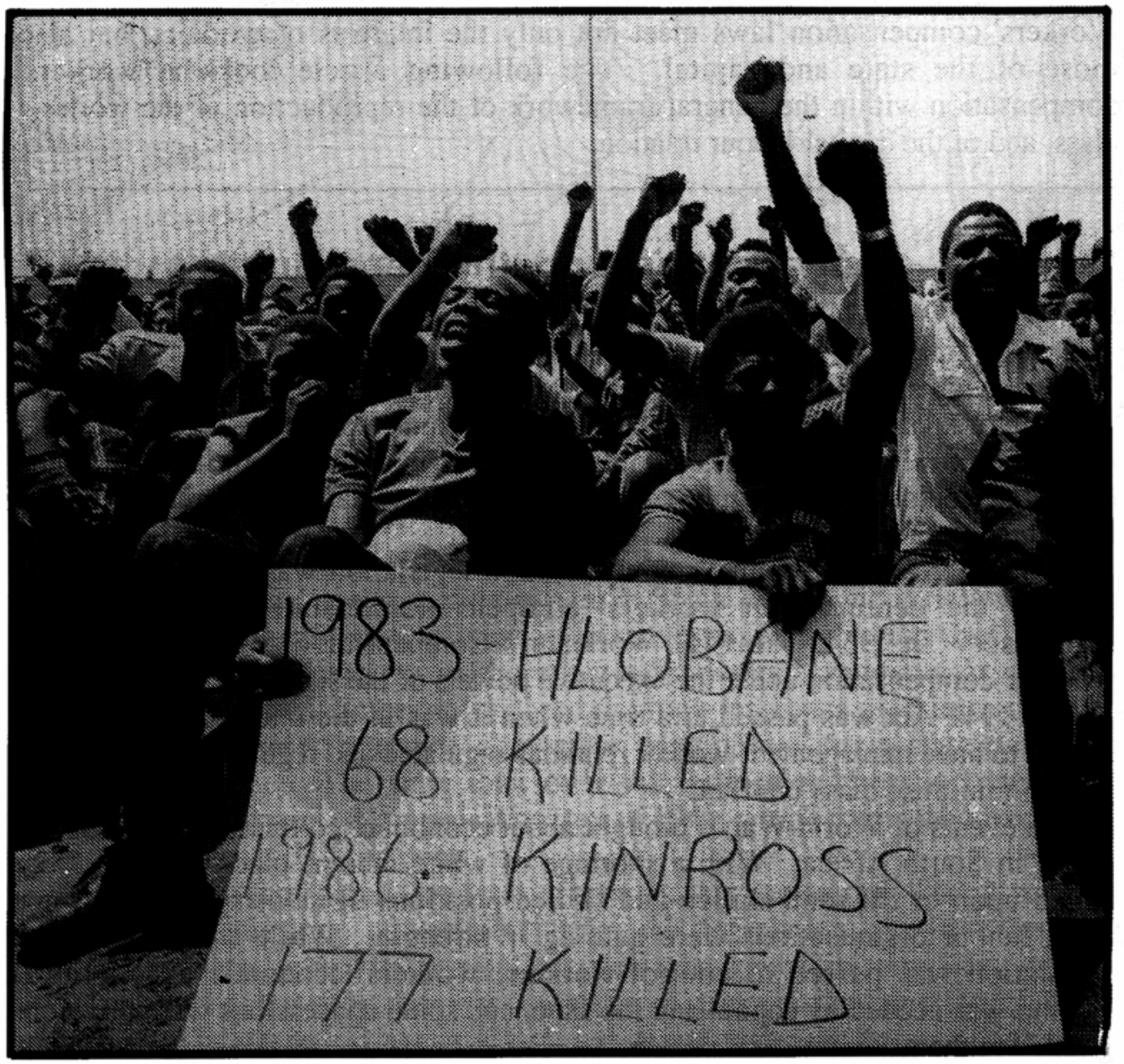
Thus, workers do not only bear the brunt of unsafe working conditions, as far as loss of life and limb is concerned, but they also face an impairment of their quality of life. While compensation awards do, to a limited extent, account for the former, they certainly do not make up for the latter.

Many injured and disabled workers never receive what little compensation amounts are due to them, because of employers' failure to report accidents and

forward payments, workers' ignorance of their rights, administrative red tape, and corruption. These are the problems that CRITICAL HEALTH No 18 addresses itself to. It aims to explain the administrative red tape involved in claiming compensation.

In particular, this issue of CRITICAL HEALTH points to the role of health workers in assisting workers to claim compensation. Many health workers are unaware of the rights of workers in this regard, of the procedures involved, and of the consequences of their medical assessments and reporting. Inadequate or inaccurate reporting, or improper completion of forms by doctors would affect the calculation of the compensation award for the worker, and thereby seriously affect his/her chances to make a living.

For health workers, it is therefore a matter of medical ethics to acquaint themselves with the correct procedures and requirements, to maintain a high index of suspicion with regard to symptoms of occupational disease, to examine the patient thoroughly, to report on his/her condition accurately, and to bear in mind the social consequences of the medical assessment for the worker.



THE POLITICS OF WORKERS' COMPENSATION

Workers' compensation laws meet not only the interests of workers, but also those of the state and capital. The following article looks at workers' compensation within the general framework of the reproduction of the working class, and of the capital-labour relation.

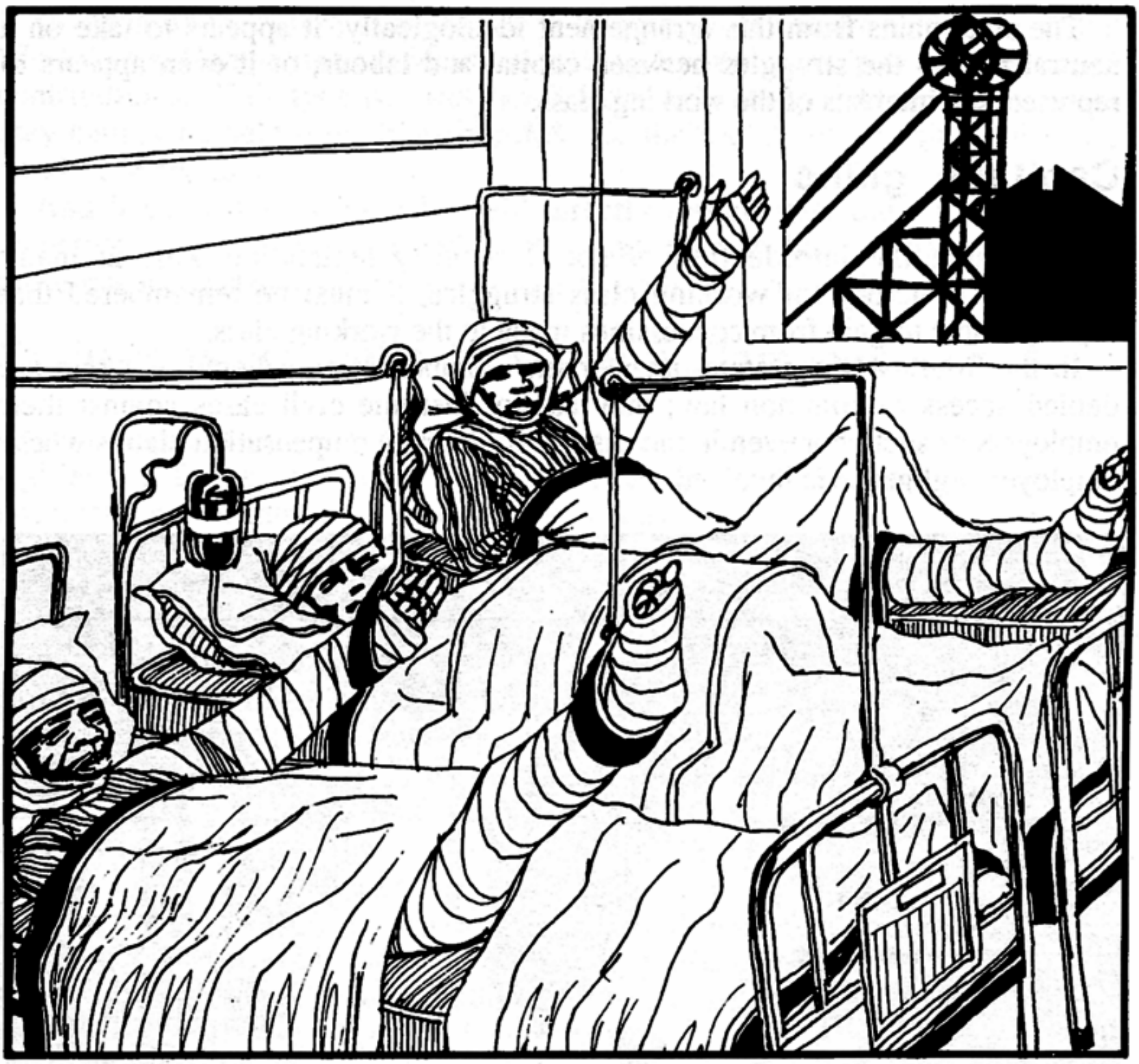
Workers' compensation and the reproduction of the working class

In advanced capitalist states, workers' compensation legislation forms part of a package of social security laws. These laws, to some extent, ensure the survival (however minimal) of workers outside of work, so that production in the capitalist sector can continue over time. This is what is referred to as the reproduction of the working class.

In South Africa, workmen's compensation legislation was introduced at the turn of the century, but workers' compensation insurance only became compulsory in 1934. The 1941 Workmen's Compensation Act finally brought workers' compensation under the executive powers of the state.

The 1941 Act was passed at a time when it was in the interests of advanced capital to have management-worker relations regulated and regularised, and in this way to minimise class conflict.

The events of World War II brought about economic, political and ideological crises in South Africa. With a shortage of white labour, black workers were called upon to fill semi-skilled and skilled positions in industry. At the same time, labour organisations were gaining in strength. While some repressive legislation was passed to control workers, workers' economic and political support was needed by capital and the state, and some concessions were therefore granted to them.



State intervention

In the early workers' compensation system in South Africa, industrial enterprises paid insurance premiums to private insurance companies, which then paid out certain amounts to workers in the event of industrial accidents or diseases. Industrial enterprises, however, opposed the high insurance premiums that they had to pay to these insurance companies and lobbied for a state-run social insurance scheme. The state took over the bulk of workers' compensation through the Workmen's Compensation Act of 1941, which forms the blueprint of today's compensation legislation.

Through this legislation, the state is brought into the capital- labour relation. By passing, enforcing, and administering this legislation, the state becomes involved in ensuring that the particular capital-labour relation continues.

Furthermore, the state assumes an active role in the reproduction of labour power.

The state gains from this arrangement ideologically: it appears to take on a neutral role in the struggles between capital and labour; or it even appears to represent the interests of the working class.

Capital's gains

Even though the introduction of social security legislation was, in many instances, a victory for working class struggles, it must be remembered that capital is able to gain from concessions made to the working class.

In the South African state-run workers' compensation scheme, workers are denied access to common law; they cannot institute civil cases against their employers as such, not even in the case of additional compensation claims where employer negligence is involved.

There is little incentive for employers to improve safety conditions

Compensation, as well as additional compensation claims are paid out from the Workmen's Compensation Fund, into which employers pay certain fixed contributions. This type of insurance is relatively cheap for employers, since they cannot be held directly responsible for the social costs arising out of an accident or disease.

And because they cannot be held directly responsible, there is very little incentive to improve health and safety conditions at the workplace, so as to prevent work-related accidents and disease in the first place.

Exclusions from the Workmen's Compensation Act

Capital has, in many ways, been able to exercise its dominance in social security legislation. This is manifested, among other things, in the fact that the state has not been able to introduce a uniform compensation system; the divisions and interests of different sectors of capital are reflected in the workers' compensation system as it stands today.

Mining capital, for instance, had made its own compensation arrangements through the Rand Mutual Assurance Company before 1940, and the 1941 Act allowed for this arrangement to continue.

Sectors in which workers were organisationally and politically in a weak position, were excluded from the workmen's compensation scheme: domestic workers, employers with less than five workers and, until 1964, agricultural workers as well.

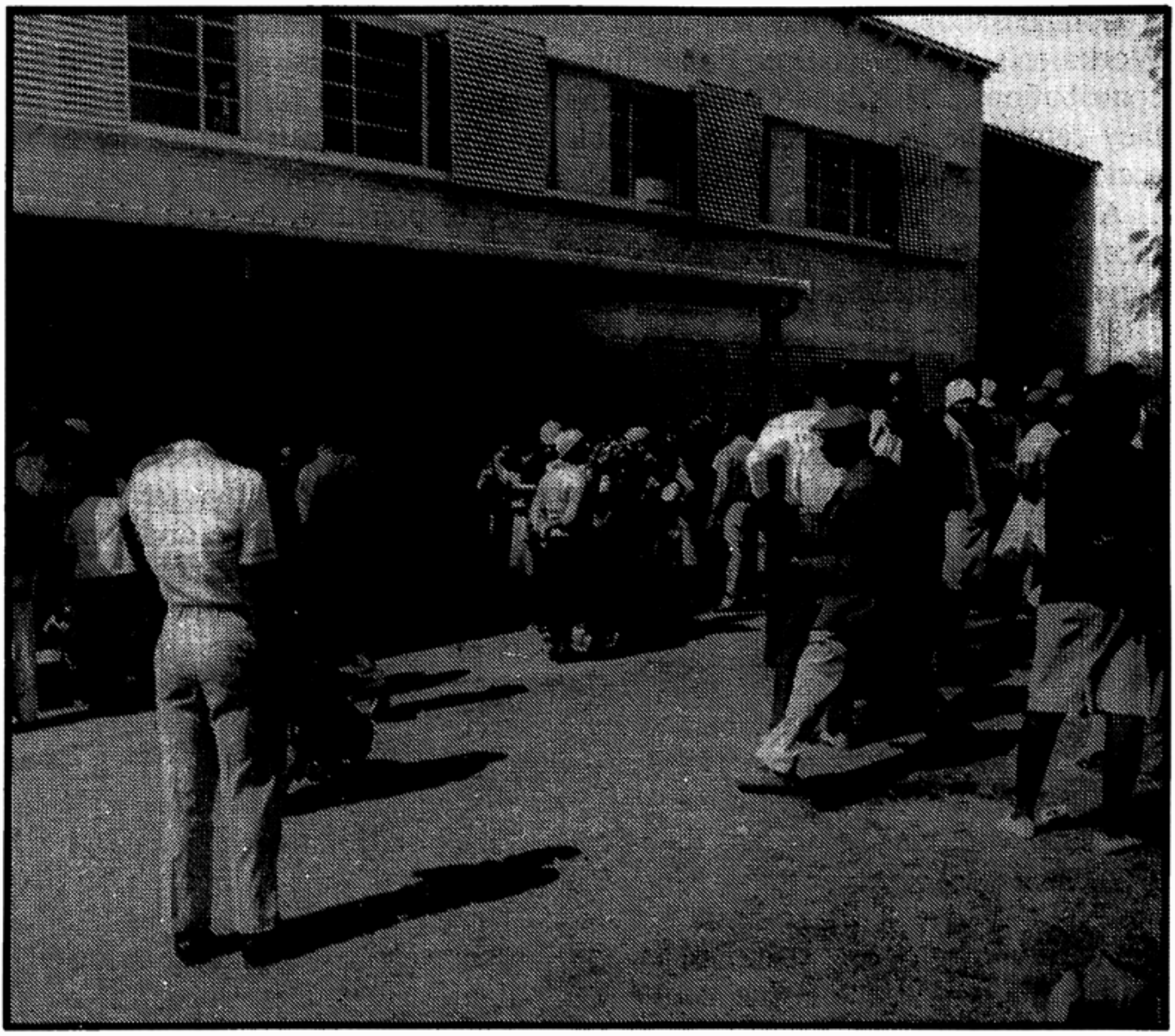
State employees, likewise, are excluded from the workmen's compensation scheme, though for different reasons. One possible explanation might be that the state wishes to maintain its ideologically significant role of appearing to be separate from capital. State workers are paid compensation through a separate compensation scheme, or directly by the state.

Discrimination on the basis of race and class

Apart from the lack of uniformity of the workmen's compensation system, as far as coverage is concerned, there are vast differences within the Workmen's Compensation Act's provisions for the various income groups.

Overt discriminatory elements were contained in the early South African compensation legislation. The 1914 Workmen's Compensation Act dealt specifically with white labour, while a separate law - the Black Labour Regulation Act - dealt with compensation for black labour, with provisions for very much lower compensation awards. Provisions for black workers' compensation were introduced in the Workmen's Compensation Acts from 1934 onwards.

However, under the 1941 Act, racial discrimination remains, as white and black workers are compensated differently. Furthermore, compensation awards vary with the percentage of wage levels, thus discriminating against lower-paid workers, who are mostly blacks.



There is a large pool of "healthy" unemployed workers available

Discrimination against black workers also occurs at the level of practices concerning industrial diseases. The legislation concerning industrial disease attempts to genuinely compensate white miners, whereas black miners receive very much lower awards.

In the case of black workers, moreover, there is a tendency to exclude them from the workforce without any compensation payment, by retrenching them as soon as symptoms of an occupational disease have been diagnosed.

As there is, at present, a large pool of "healthy" unemployed workers available, employers can afford to disregard the full costs of the reproduction of labour power in the short term. The present political system in South Africa facilitates the marginalisation of "unproductive" labour, by expediting workers to the various "homelands".

Information in this article is from D. Rosengarten: "Worker's Compensation - South Africa, A Case Study": BA Hons Dissertation (Development Studies), University of the Witwatersrand, Johannesburg, March 1983.

WORKMEN'S COMPENSATION: WHO BENEFITS?

Compensation for work-related injury or ill-health is administered and partly funded by the state, together with contributions by employers through a system of levy payments.

The present system of compensation in South Africa was introduced with the Workmen's Compensation Act of 1941 (WCA). It was designed to protect the worker by encouraging safer conditions at work, and by ensuring compensation for occupation-related injury or disease. Experience has shown, however, that the Act falls far short of the needs of workers with regard to safe working conditions and adequate compensation. In fact, the compensation system under this Act has been shown to protect and benefit employers rather than employees. The system compromises workers at two levels: Firstly, the Act itself does not make adequate provisions; and secondly, the implementation of this law remains a problem.

Even though the Workmen's Compensation Act has been amended, it has not been changed significantly since 1941, and has many deficiencies. This should always be considered when dealing with the case of a worker applying for compensation.

Inadequacies of Workmen's Compensation

The Act is characterised by its exclusions rather than by its inclusions.

The WCA is not sufficiently comprehensive in its coverage. There is no coverage for outworkers, casual workers, employees not employed for the purposes of the employer's business. The latter would, for instance, include gardeners in an industrial concern. Moreover, domestic workers and state employees are excluded from the WCA.

Compensation money does not compensate

The amount for which a worker is eligible can never compensate for loss of earnings, because:

- The maximum benefit which a worker may receive is 75 percent of his/her monthly wage at the time that the accident occurred or the disease developed. The assumption here seems to be that worker's needs decrease when injured when, in fact, the opposite tends to be true. Workers incur more expenses when injured or disabled. Moreover, this calculation means that people earning different levels of wages are awarded different amounts for the same injuries or degree of disablement. This ruling particularly disadvantages lower paid workers. It certainly does not ensure a fair or adequate payment for disability. Because of the wage gap between blacks and whites, compensation is de facto racially determined. For the same injury a black worker will almost always receive less compensation money than a white worker.
- If a worker is off for less than two weeks, the compensation fund will not pay for the first three days off work. This means loss of earnings for the worker, unless the employer pays the worker sick leave for these three days.
- Disablement is assessed according to anatomical loss or loss of movement. Under the Act, loss of bodily function is not compensated for. Furthermore, compensation for disablement is not calculated in relation to the workers' ability or inability to pursue their occupation. For instance: A below-knee amputation to a crane driver may mean a 100 percent disabilility in terms of vocation, but would be assessed as an anatomical loss of 35-45 percent.
- Compensation is in no way related to re-employment potential. Thus, a manual worker who loses a hand is rarely re-employable and receives minimal compensation, as compensation is based on his wage. A skilled worker losing a hand, in contrast, is more likely to be re-employed and rehabilitated, and will receive more compensation than his less skilled counterpart.

No protection against dismissal and relocation to other jobs

There is nothing in the law to protect injured workers from being dismissed. Very often workers are fired following a disabling injury. Unemployment resulting from dismissal following an injury or disease often comes to mean unemployability when, as in present-day South Africa, there is a large pool of more healthy unemployed workers.

If such disabled workers are being kept on, they are often relocated to menial jobs at lower pay. Health workers and employers in South Africa generally tend to disregard the importance of rehabilitating injured worers to re-assume an active and meaningful worklife. This lack of awareness is widespread, even though the Workmen's Compensation Act makes provision for the care of disabled workers.

As a result, rehabilitation of injured workers has remained an under-utilised component of the Act. This tendency underlines the general attitude of employers

and health professionals - that commitment to the worker begins and ends with making contributions to the Accident Fund and filling in forms.

Rehabilitation of injured workers is an under-utilised component of the Act

Other inadequacies

- The Act makes no provision for the pain and suffering which workers may experience as the result of work-related injury or ill-health
- The Act does not recognise as compensatable many conditions which are not obvious or do not result in "time lost" absences from work, but which may cause considerable problems for sufferers (for instance backache, muscular injury or scarring/adhesions from burns).
- The Act deals inadequately with occupational diseases. Only 18 groups of diseases are acknowledged as compensatable. The Act thus excludes many conditions which are recognised and accorded indemnity by international authorities (as, for instance, in the case of occupational asthma).

  Furthermore, it is often difficult for the worker to prove that his occupational disease arose from a particular job which he did at a particular time in his work history. This applies especially in the case of lung diseases, which may take a long time to develop and show symptoms. These symptons are often detectable only with sophisticated instruments, and specialised medical personnel, to which black workers often do not have access. Where workers are in a weak position vis-a-vis their employers, they tend to get laid off at the diagnosis of the first symptoms of industrial disease.

How do the problems arise? - The reponsibilities of employers and medical officers

Many of the problems experienced with the Workmen's Compensation Act are related to the interpretation and implementation of the Act. In order to explore these issues, it is necessary to broadly identify the responsibilities of the various parties involved.

It is the function of the Workmen's Compensation Commissioner (WCC) to determine what constitutes a compensatable injury or disease, and to determine the degree of disablement. This assessment will be based on the reported information supplied by doctors and employers.

The role of medical professionals

It is the responsibility of the attending medical officer to report as accurately as possible, the condition and circumstance of the injury or disease, in order that the Workmen's Compensation Commissioner can make a fair and just assessment, based on this information.

In practice, however, many problems arise because forms are not sufficiently or accurately filled in. As already mentioned, the Workmen's Compensation Commissioner is dependent on the information supplied in the forms in order to make an assessment.

It is therefore imperative that the information is accurate, complete and fair. In filling in the relevant details on the form, the medical officer should bear in mind

the potentially serious implications of this procedure to injured workers, whose ability to earn a living for themselves and their dependants may have been seriously affected by their temporary or permanent disability.

The role of employers

It is the responsibility of the employer to report the accident to ensure a fair assessment of the injury by an impartial doctor of the worker's own choice, and to ensure that the appropriate forms, accurately filled in, are sent to the offices of the Workmen's Compensation Commissioner.

At face value, these appear to be simple and reasonable procedures. In practice, however, many of the problems that workers experience in obtaining compensation, can be traced to the fact that employers and medical officers do not comply with the requirements outlined above.

(Non-) reporting of work-related injury or ill-health

Accident statistics do not reflect the likely assumption that black workers are the ones to suffer most injuries. This is probably due to non-reporting of accidents, black workers not knowing their rights with regard to compensation, and the red tape involved in claiming compensation.

Injuries can be easily hidden by these factors, whereas deaths from industrial accidents cannot go unreported. Correspondingly, we find that the death rate, which is comparatively high, involves mostly black workers. This seems to indicate that many accidents resulting in injuries are not being reported.

The rebate system: A small number of claims ensures a high rebate

The system of employer contributions and rebates, intended to promote a safer work environment, has in many instances promoted a reluctance to comply with the Act.

Compensation is paid to injured workers from a central fund to which employers contribute according to an annual assessment levied on them, based on a percentage of their wage bill and their accredited risk status. This means that industries that are considered more dangerous than others pay higher contributions. The assessment of the degree of danger depends on the hazards of the production process, or on the number of accidents reported to the Workmen's Compensation Commission.

At the same time, there is a system of rebates, calculated three- yearly on the basis of the accident record of the firm: The fewer the claims, the more substantial the rebate.

Besides reduced or increased assessment rates in accordance with accident records, a "discount" of up to 25 percent may be obtained if the employer provides "adequate" medical facilities at the point of employment. (Such facilities, at the same time, ensure that a worker will return to work as soon as possible after having been injured.)

All these factors strongly influence employers' and occupational health workers' decisions, when they report accidents or submit claims for compensation. The rebate system is a disincentive for reporting accidents. To avoid reporting an accident, for instance, occupational health nurses may treat potentially disabling injuries; or workers may be kept at work after having had an accident or work-related disease. This practice is supported by the fact that many companies do not allow workers to have work-related injuries assessed by doctors of their own choice.

These practices have serious implications for workers. They deny the worker access to any future compensation should complications following an injury set in. (A so-called "minor" injury may become a serious disablement, as in the case of an infections of burns.)

Other possible reasons for non-reporting

Employers may not report an injury for fear of prosecution, if they themselves are not registered with the Workmen's Compensation Commission, or if the injured worker is unregistered. In terms of the Act, the injured person is covered in both instances.

There are many documented cases of employers simply refusing to acknowledge that an accident has happened at all.

A number of accidents are not reported

How to minimise delays in obtaining compensation

Claims for compensation often take a long time to be realised. Many factors contribute to such a delay:

- Staff shortages and inexperieced Workmen's Compensation Commission clerks are partly to blame for bureaucratic inefficiency.
- The actual process of compensation may take a long time. Disease claims, in particular, may take years to finalise, before the worker or the dependants receive the money.
- If forms are inadequately filled in, the process is slowed down.

The Workmen's Compensation Commission will not start the proceedings until all relevant forms concerning the case have been received. It is therefore very important that all persons responsible for filling in and forwarding forms do so as efficiently and as quickly as possible.

It may be necessary to follow up the progress of a claim to determine whether and why there is a delay. This simple procedure may help considerably in ensuring that disabled workers receive compensation with the shortest possible delay.

Unclaimed benefits

Every year, vast amounts of money go unclaimed by workers. (The number of unclaimed benefits are published in the Government Gazette.) This is due to the fact that employers often do not keep accurate forwarding addresses in the event of workers being dismissed or leaving their employment before they have received their cheque.

Ways to improve the implementation of Workmen's Compensation

Workers need to know their rights

Workers themselves often do not know their rights with respect to Workmen's Compensation. They often do not realise that they can be compensated for loss of earnings through injury or illness at work. Many workers do not understand the procedures and are therefore unable to protect their own interests.

In addition, workers, under the 1941 Act, have no recourse to the civil courts: the Workmen's Compensation Commission adjudicates on all matters.

Health workers need to look beyond the administration of Workmen's Compensation

Health workers in general, and in the occupational health field in particular, can play an invaluable role by becoming more aware of the implications of the Workmen's Compensation Act, beyond the administrative function. Such an awareness would help to alleviate many of the problems experienced at the level of interpretation and implementation of the Act.

Work-related injuries and diseases - official and unofficial figures

Each year, some 200 000 injuries are reported to the Workmen's Compensation Commissioner. Approximately 25 percent of these are injuries which lead to permanent disablement. These figures do not include unreported injuries or unidentified or reported disease cases. The true extent of injuries and accidents at work, and of the accompanying social problems, would provide a more frightening picture than that arising from the offical statistics.

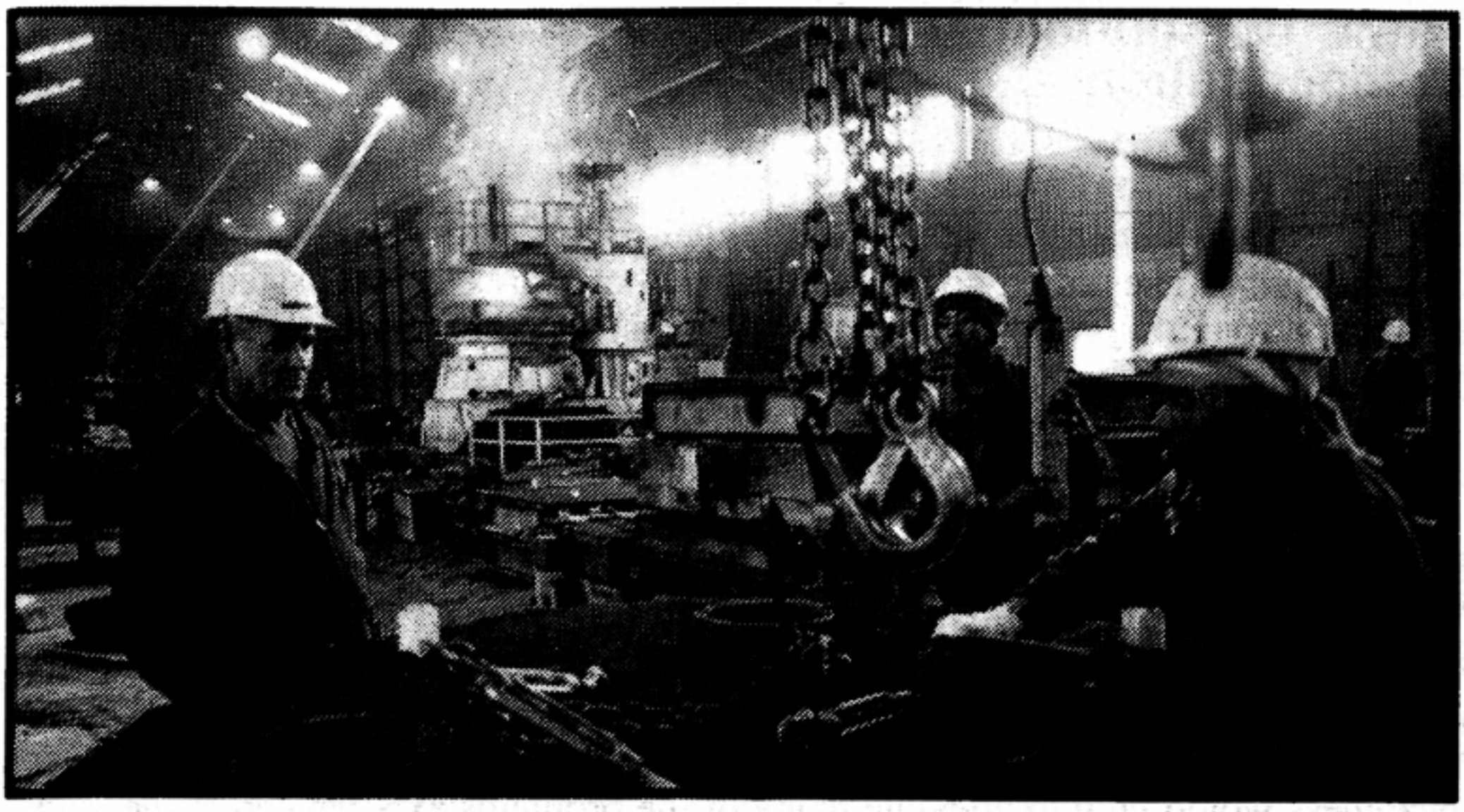
Alternatives

At this stage, we need to address ourselves to the formulation of a compensation system that compensates workers adequately. This would be a system
- which does not allow employers to use it to their own advantage and
- which does not penalise workers for accidents or injuries at work.

Instead, workers should be covered by a compensation system whereby compensation is determined by
- the loss of functional ability
- the prospect of re-employability
- the impairment of their quality of life.

To this end, legislation should be passed which ensures that any workers injured or diseased in the course of their work, may not be fired from their jobs and may not lose earnings as a result of relocation to other jobs.

Most importantly, legislation should lay the responsibility of providing a healthy and safe workplace at the door of the employer.



Employers should provide a healthy and safe workplace

COMPENSATION LAWS IN SOUTH AFRICA

In South Africa compensation for occupational diseases and injuries resulting from industrial accidents is covered in two pieces of legislation: The Workmen's Compensation Act No 30 of 1941 (WCA), and the Occupational Diseases in Mines and Works Act No 78 of 1973. (ODM&WA)

The Occupational Diseases in Mines and Works Act (ODM&WA)

This act covers only the mining and mining related sector of industry. It contains a list of diseases for which those employed in specified job categories in a mine or works may be compensated. A "works" is a workplace other than a mine where ore is processed, concentrated or refined. It includes the working and treating of mine dumps for the recovery of valuable material and the making and repairing of underground tunnels. (A more complete description of a works is contained in the Act.)

The Workmen's Compensation Act (WCA)

This act covers workers employed in the non-mining sector of industry, and workers employed in a mine or works who develop occupational diseases not listed in the ODM&WA.

It does not cover workers who earn in excess of R24 000 per year (unless a special arrangement has been entered into with the Workmen's Compensation Commissioner). The act also excludes certain categories of workers (for example domestic servants, persons employed casually for a purpose other than the employer's business, National Servicemen and subcontractors).

The WCA contains two schedules.

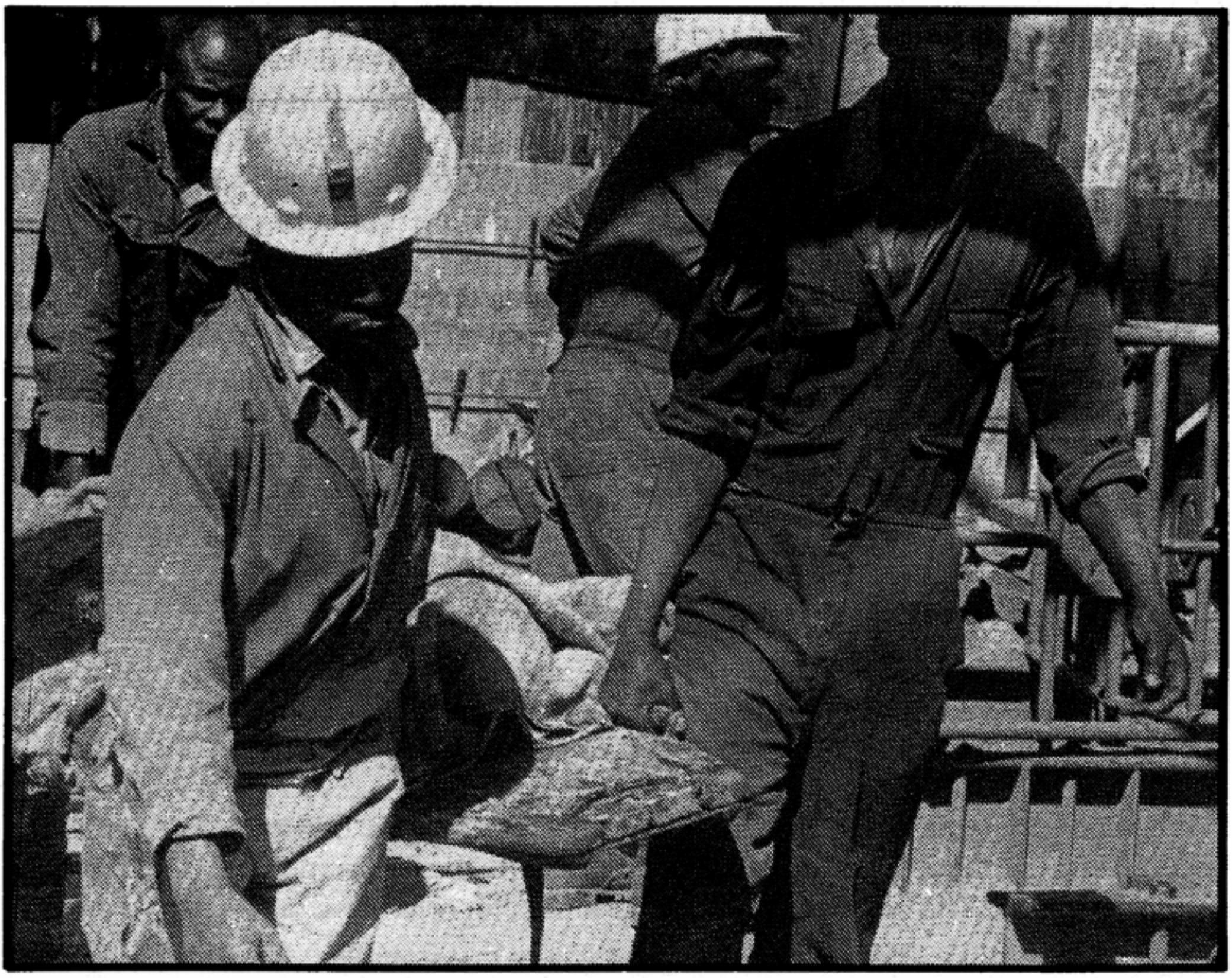
The First Schedule is a list which lays down the percentage disbility of injuries resulting from industrial accidents.

The Second Schedule is a list of diseases recognised to be caused by the nature of the work that an employee is performing or did perform. This means that workers who develop a disease listed in the Second Schedule are eligible for compensation if they have a history of occupational exposure to the relevant substance which causes the disease. They do not have to prove that the causing factor in question did in fact cause the disease.

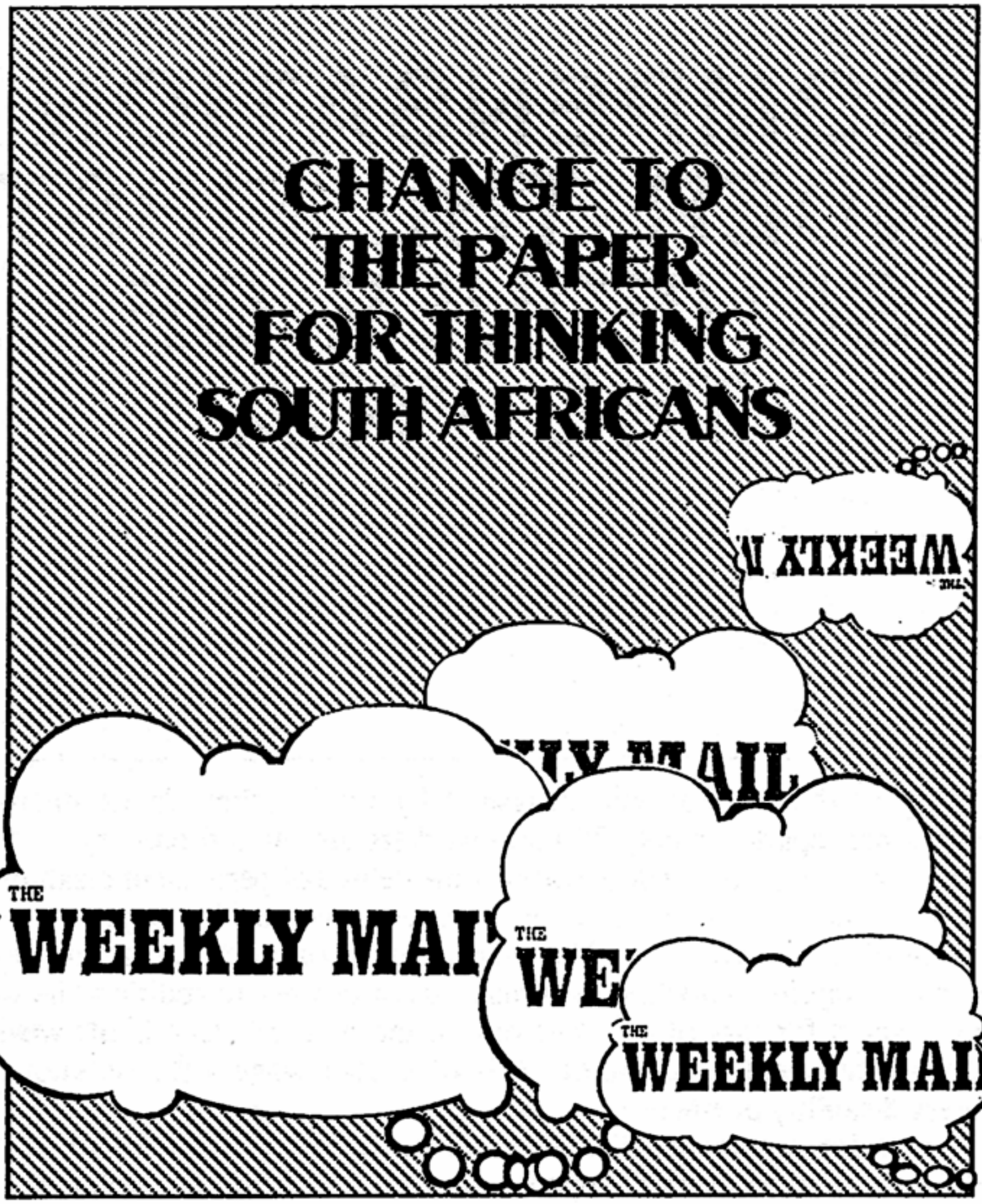
Workers who develop an occupational disease not listed in the Second Schedule must prove that the disease is a result of workplace exposure (and did not occur coincidentally) before they can be compensated. In practice, workers who develop diseases not listed in the Second Schedule are rarely compensated.

Copies of these laws can be ordered from:

The Government Printer
P. Bag X85
Pretoria
0001
Tel (012) 323-9731



The First Schedule lays down the percentage disability of injuries resulting from industrial accidents



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COMPENSATION UNDER THE FIRST SCHEDULE OF THE WCA

According to the Annual Report issued by the Workmen's Compensation Commissioner, approximately 230 000 workers are injured on duty each year. Of these, some 13%, i.e. 30 000, suffer some degree of permanent disability.

The Workmen's Compensation Act makes provision for payment for this permanent disability which is calculated in terms of a percentage of the wage earned by the injured worker at the time of the accident. In addition, the worker is compensated for loss of earnings during the period he/she is off work as a result of the accident, at a rate of 75% of his/her wage. (This is known as a temporary disability payment.)

Payments for permanent disability are made in accordance with the First Schedule of the Workmen's Compensation Act, which will be explained in this article. A copy of the First Schedule follows this article.

It is important to note that the Commissioner assesses the degree of disability in accordance with information provided by the examining doctor. The burden therefore rests on the doctor to provide an accurate and fair assessment of the disability, in order that the worker may claim the compensation which is due to him/her.

Assessment of permanent disability

"Disablement" is defined as disablement for employment, or permanent injury, or serious disfigurement.

The Commissioner assesses loss of function as the loss of active movements in degrees, compared to the normal movement of the joint concerned. It is thus very important for the doctor to measure the range of active movement.

In the case of hands and feet, special charts are provided by the Commissioner (Forms WCl 31 and WCl 221).

The method used by the Commissioner is based on the premise that a joint in the neutral (straight) position is at 0 degrees. Measurement into flexion extends up to a theoretical possibility of 180 degrees or 200 degrees, depending on the joint involved. Lack of extension is also lack of movement and should be recorded.

It should be understood that impairment of function is comparable to loss of the limb concerned through amputation.

In assessing disability of hands, it is important to test the patient's power grip and pinch grip.

Loss of sensation is also compensatable - for instance: total loss of palmar sensation is calculated by the Commissioner as equal to 50% of an amputation.

In cases of disfigurement, the Commissioner will often request photogaphs. In fact, this method is often the best way of showing the degree of disablement.

If the worker's condition deteriorates after his/her case has been finalised by the Commissioner, it is possible to have the case re-opened.

This applies especially in cases where the worker needs further surgery, or where it is thought that the Commissioner has not been notified of all the facts relating to disability. In this event, the patient is required, at his/her own expense, to submit to the Commissioner a detailed medical report. This report should describe in detail his/her condition, and show how this relates to the accident. The report should also indicate the nature of the medical treatment/surgery envisaged.

Upon receipt of this medical report, the Commissioner will consider the matter in conjunction with all other available medical evidence, to determine whether the claim shall be re- opened. When the worker's condition has again become stabilised, a further detailed final medical report has to be submitted to the Commissioner who will then re-assess the worker's degree of permanent disability if necessary.

Compensation amounts paid to the worker

a) Temporary total disablement

Compensation for temporary total disablement is payable at the rate of 75% of a worker's monthly earnings up to R600 of such earnings, plus 50% of the worker's earnings in excess of R600 up to R1 300 of such earnings. Periodical payments shall be made during the period of temporary total disablement at regular intervals of not longer than one month, for a period not exceeding twelve months.

In order to enable the Commissioner to effect periodical payments, it is imperative that regular medical progress reports by the practitioner/specialist who treats the worker, be submitted to the Commissioner.

However, where the employer has paid the worker during the period of absence, compensation for temporary total disablement will be paid to the

employer.

b) Permanent disability

Compensation for permanent disability depends upon the degree of disability. There are two main categories:

i) If the worker is judged to have 100% disability, he/she will receive a lifetime monthly pension equal to 75% of his/her earnings up to R600 per month. Should his/her salary be higher than that, 50% of the excess will be added to the pension up to a maximum of R300 of such monthly earnings.
Should the permanent disability be assessed as between 100% and 30% by the Commissioner, then the pension is calculated on a pro-rata basis.

ii) Should the worker have a 30% disability, he/she will be paid a lump sum which consists of 15 x his monthly salary up to a maximum of R600. Lesser disabilities are calculated proportionately.

Procedures for claiming under the First Schedule

The employers by law must:

- report the accident to the WC Commissioner in Pretoria, on form WCI 100
- provide transport for the worker to the doctor/hospital
- provide proof to the doctor that the worker was injured on duty (i.e. by filling in a form or writing a letter). This is what makes the worker's claim a WC case.
- The employer must fill in a resumption report (WCI 6) if the worker comes back to work, and even if the worker has been dismissed.

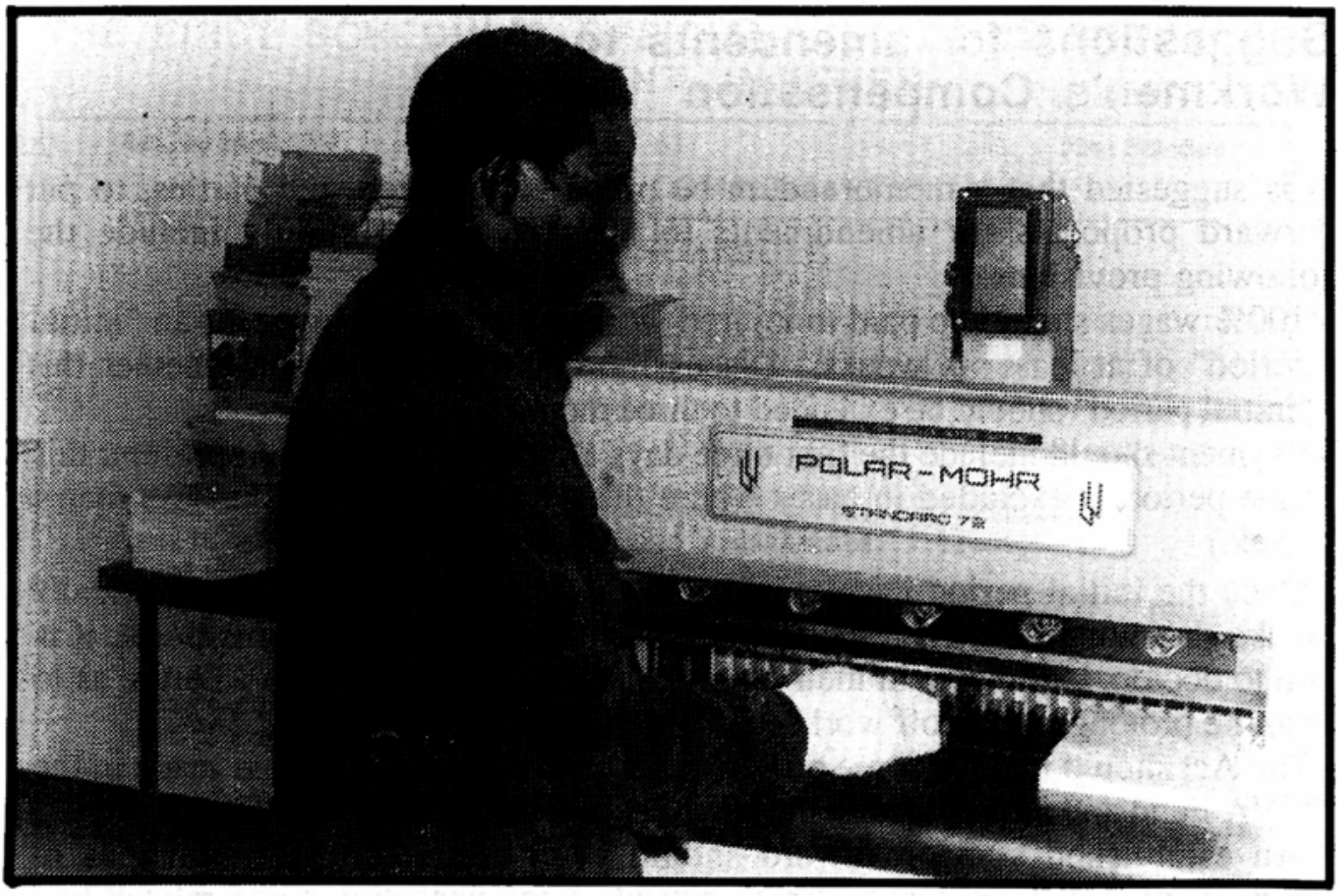
The doctor

- treats the patient free of charge and sends the bills to the WC Commisisoner in Pretoria (see Form WCI 11)
- fills in the medical reports:
- the first medical report (WCI 4)
- the final medical report (WCI 5) stating the date on which patient is fit for work, and an assessment of permanent disability.

All these forms are available from the
Workmen's Compensation Commission
P.O. Box 955
Pretoria
0001

Problems regarding the role of doctors

Sometimes doctors do not examine compensation claimants properly. Doctors might, for instance, send the worker back to work before he/she is fit; or doctors might misassess the degree of permanent disability.



Doctors might send the worker back to work before he/she is fit

Checklist for the doctor assessing an injured worker

- Does the doctor know what kind of work the worker does, and whether he is in fact fit for work?
- In assessing permanent disability, has the doctor taken account of functional disability (loss of active movement) in addition to anatomical disability?
- Does the doctor represent the employer or the worker, or does he/she adopt a neutral professional position?
- Why do doctors do WCA work? Why do some doctors specialise in it?
- Does the doctor act within ethical standards in treating the worker? It is important to maintain these standards in the face of a system of payment that encourages surgery for rehabilitation.

What doctors can do in cases of delays in the compensation payment to workers

If a worker does not receive any payment for months, the doctor concerned can
- ask the employer to pay the worker and then apply to the WCC for a refund
- apply directly to the WCC for an interim payment for the worker
- report the accident on behalf of the worker, if it has not been reported (Form WCI 3, together with an affidavit on WCI 132 from the worker).

Suggestions for amendents to the Workmen's Compensation Act

It is suggested that a memorandum be prepared by interested parties, to put forward proposals for amendments to the Act, which should include the following provisions:

- 100% wages should be paid to injured workers by the employer for an "initial period" of at least six weeks. Discussion could take place on whether this "initial period" should be extended to three months.
- Payment should include the first three days after the accident. (At present, this time period is excluded in cases where the worker is off duty for less than a week.)
- Once the initial period has expired, the Commissioner should automatically make the monthly interim payments specified in the Act. At this point, it is up to doctors to indicate in their reports that the injury is of such a nature as to require prolonged time off work.
- The Act should include some provision for pain and suffering as is made in the MVA Fund and as provided in the New Zealand scheme.
- An established standard award should be instituted for certain types of permanent injury, i.e. loss of limb, instead of compensation being related to a percentage of wages at the time of the accident.

At present, workers injured on duty receive only 75% of their wages from the Commissioner once the claim has been accepted. This can take anything from six weeks to over a year. If the employer had to pay wages and then recoupe the amount so paid from the Commissioner, this would provide the necessary motivation for the employer to report the accident and to submit all the relevant documents promptly to enable the claim to be processed.

Doctors already have this motivation, as they are not paid for medical claims for injured workers until all the necessary information is received by the Commissioner.

The proposal that employers pay wages for an initial period after an accident, will partially avoid the problem of unclaimed monies (presently amounting to R5 million) which only arises because the workers concerned cannot be traced. If the employer paid the worker, the Commissioner would then re-imburse the employer and this would save an enormous amount of clerical work at the WCC office.

Workers are possibly less likely to be dismissed immediately after an accident, if the employer is required by law to continue to pay him/her.

Workers should not be required to work if they are certified as unfit by a doctor. If, however, they choose to work during their convalescence, they should be entitled to sick pay and to wages for work done, i.e. double wages.

This article was compiled by the Industrial Aid Society

THE FIRST SCHEDULE: OFFICIAL LIST OF DEGREES OF PERMANENT INJURIES

[1]FIRST SCHEDULE.

INJURY.	*Percentage of Disablement.*
Loss of two limbs	100
Loss of both hands, or of all fingers and both thumbs	
Total loss of sight	
Total paralysis	
Injuries resulting in being permanently bedridden	
Any other injury causing permanent total disablement	
Loss of *arm* at shoulder	65
Loss of *arm* between elbow and shoulder	55
Loss of *arm* at elbow	
Loss of *arm* between wrist and elbow	
Loss of *hand* at wrist	50
Loss of four *fingers* and *thumb* of one hand	
Loss of four *fingers*	40
Loss of *thumb*—both phalanges	25
one phalanx	15
Loss of *index finger*—three phalanges	10
two phalanges	8
one phalanx	5
Loss of *middle finger*—three phalanges	8
two phalanges	6
one phalanx	4
Loss of *ring finger*—three phalanges	6
two phalanges	5
one phalanx	3
Loss of *little finger*—three phalanges	4
two phalanges	3
one phalanx	2
Loss of *metacarpals*—first, second or third (additional)	4
fourth or fifth (additional)	2
Loss of *leg*—at hip	70
between knee and hip	45 to 70
below knee	35 to 45
Loss of *toes*—all	15
great, both phalanges	7
great, one phalanx	3
other than great—	
four toes	7
three toes	5
two toes	3
one toe	1
Eye: Loss of whole eye	30
sight of	
sight of, except perception of light	
Loss of *hearing*—both ears	50
one ear	7

COMPENSATION FOR NOISE INDUCED HEARING LOSS

Of the lesser known health hazards in the mines, noise and resulting noise-induced hearing loss (NIHL) have received little attention in the media, despite being perhaps the most prevalent of all industrial hazards. Noise in the underground mining environment has been investigated by the Chamber of Mines (COM) in South Africa but the results of these investigations are not generally available and the extent and the prevalence of the noise hazard is not known to mineworkers.

The National Union of Mineworkers (NUM), wishing to establish for itself what the noise hazard to its members is, approached the Technical Advice Group (TAG) to conduct a survey into noise and NIHL in the South African gold mines.

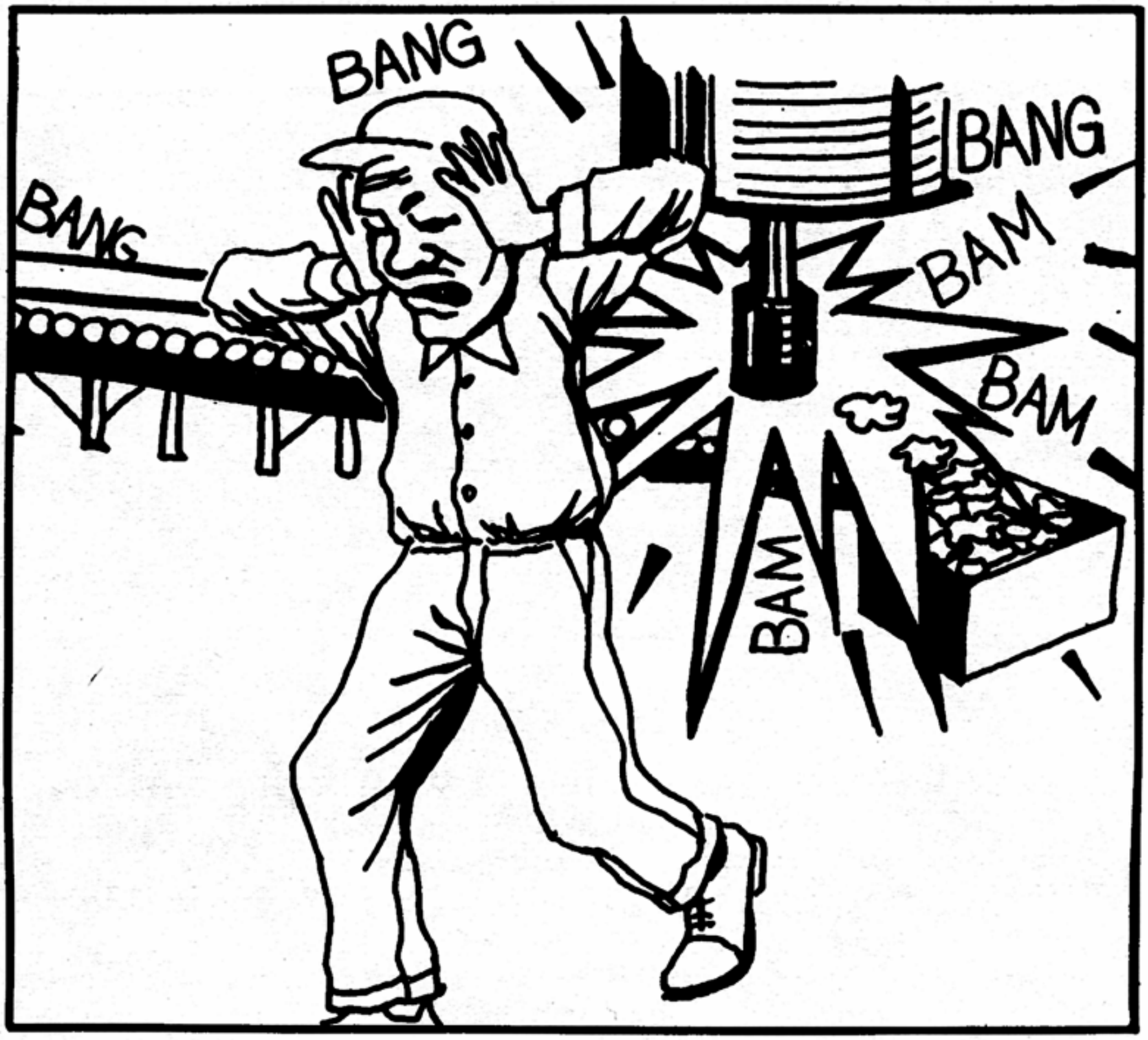
Published studies have shown that 2.5% of the entire mining population suffers from compensatable NIHL. The NUM survey has confirmed this, and shows a higher prevalence amongst drillers.

What is noise-induced hearing loss?

Noise-induced hearing loss (NIHL) is a common occurence in industry, particularly in the mining industry due to the high levels of noise. It is defined as a permanent hearing impairment due to continuous exposure to noise over a long period. Exposure to a single loud blast which results in a hearing loss is referred to as acoustic trauma.

NIHL affects people gradually: there is no marked reduction in hearing ability in the early stages, only a deterioration in the quality of perception. This may mean that some speech sounds situated in the higher frequencies bands (ie: "s" and "t") become distorted, and the affected person may begin to rely more heavily on visual cues. By the time it is recognised, permanent damage has already begun. The phenomenon of individual susceptibility to noise has been recognised as contributing to the degree of hearing loss in relation to the time exposure.

Thus the importance of NIHL as a recognised occupational disease has been underplayed by employers and state health authorities. Workers themselves have not paid much attention to this occupational disease for the following reasons: fear of dismissal, being unaware of the condition in its early stages, fear of loss of wages due to transfer of jobs.



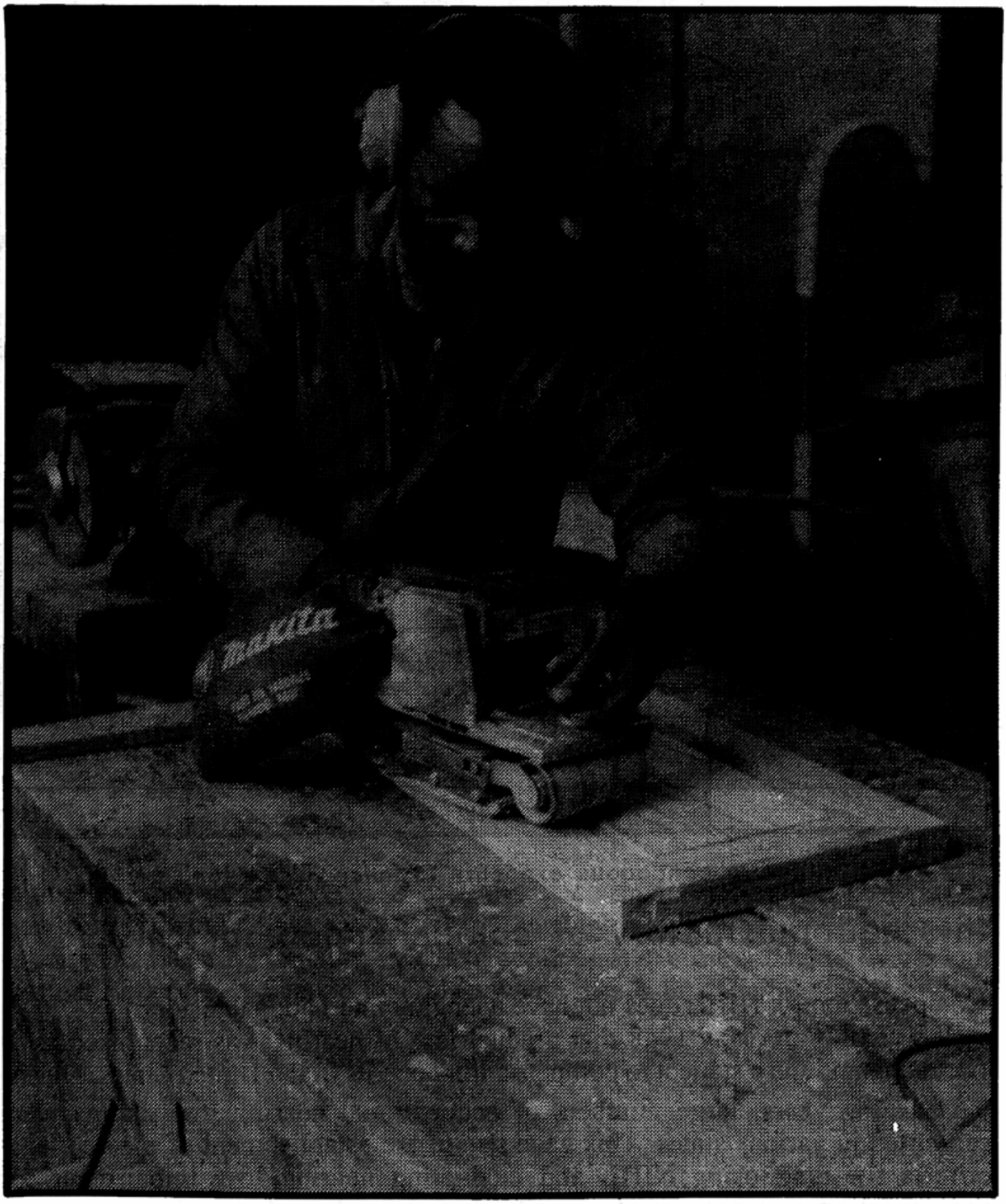
NIHL is due to continuous exposure to noise over a long period

International history of compensation for NIHL.

Compensation for NIHL does not have a lengthy international history.

It was only in May 1948 that gradual loss of hearing was recognised as an occupational injury subject to compensation benefits in the United States. During the ensuing years, large numbers of occupational hearing loss claims were submitted in various states. This gave rise to the establishment of medico/legal criteria for diagnosing NIHL and evaluating hearing loss impairment for compensation purposes. It also established the ruling that compensation for hearing loss was payable even if no loss of pay was incurred or predicted.

In Britain, the scheme for the payment of disablement benefit for occupational deafness, which operates under the industrial injuries provision of the Social Security Act of 1975, was introduced on 3 February 1975. The Act implies that the benefit paid for occupational deafness is disablement benefit, and that injury benefit is not payable. The effects of occupational exposure to noise were publicised widely for the first time in 1963 by the Health and Safety Executive in a booklet called, "Noise and the Worker".



Effective hearing protection should be implemented

Compensation for NIHL in South Africa.

In South Africa, compensation for NIHL was first introduced under the Workmen's Compensation Act (WCA) in 1969. If employer negligence was established, the claimant could apply for "increased compensation".

According to Rand Mutual Assurance (RMA), a worker can only claim for increased compensation for NIHL if he/she has been diagnosed as having a NIHL, and after 6 months, at a re-test, the audiogram shows an increase in the hearing loss.

The RMA indicated that it was the responsibility of the medical doctor, employer and the worker to ensure that the worker does not return to the same noisy environment after being diagnosed as having a NIHL. On these grounds it would be difficult for the worker to establish employer negligence. This avenue has never been tested in South Africa as regards NIHL.

There are no provisions within the WCA for ensuring that the noise conditions in the workplace are improved. However, in the SABS 083-1983 document on the code of practice for the Measurement and Assessment of Occupational Noise for Hearing Conservation purposes, the following recommendations are made:

- In areas where the noise levels exceed 85dB Neq, the best practicable means to reduce the noise below this limit must be taken, eg: by acoustically enclosing the machines.
- Where the reduction of the noise to below 85dB is not possible, hearing protectors (complying with SABS 572) must be worn by all workers who enter that area.
- All such workers will be subjected to regular audiometric tests as hearing protectors do not provide adequate protection under all circumstances.
- All noise zones are clearly demarcated and notices advising workers to wear hearing protectors are placed along the boundaries of the noise zones.

Why should NIHL be compensated?

When NIHL became a compensatable disease, it was recognised as an "impairment". NIHL decreases the quality of life of the sufferer by permanently damaging the ability to hear sound and to communicate with human beings and the surrounding world. In a work situation hearing loss creates other harmful side effects like the reduced ability to hear warning shouts or sirens in the event of an accident. This is particularly important in underground mining where accidents are commonplace and the ability to communicate can become an issue of life or death.

Compensation in its present form remains a double edged sword: while it provides recognition of the sufferer's situation and can ameliorate some of the hardships, it also curtails employer liability because it limits the amount of reparations for which employers are responsible.

Compensation does not recognise the functional disability caused by NIHL and thus does not take into account the loss of quality of life for the affected worker. In addition, compensation can never bring back hearing.

A worker has to sustain a substantial hearing loss before he is eligible for compensation. This means that the amount of compensation paid out is low, as fewer workers will satisfy the conditions for compensation. The cost then to the employer is minimised.

Compensation can also limit the implementation of effective hearing conservation programmes by providing an "alternative" avenue for employer responsiblity. In real terms it may be "cheaper" for the employer to pay out for compensation than to ensure a safer workplace which would mean reducing noise levels and ensuring the implementation of effective hearing protection.

Although compensation "is inherently biased and inadequate" (D. Rosengarten, p.7) and in South Africa is further discredited by its blatant racist character, its achievement was an important milestone in the struggle by workers for safe and healthy conditions at work.

It recognises that workers have a right to be compensated for ill-health caused by working conditions and that there is an onus on employers and the state to minimise the harmful effects. However, it does not provide sufficient impetus, in the form of employer liability, to ensure that all occupational health hazards are eradicated.

Comparing compensation schemes

The following table demonstrates the different formulas used in different countries to determine the average hearing loss and how that relates to the computation of the percentage disabilty (PD). Included are conditions required for the worker to be eligible for compensation.

Country	Formula	PD	General
UK	Average of 3 frequencies: 1, 2, 3 kHz.	A.H.L of 50dB=20%	Total of 20 yrs exposure to qualify for compensation.
USA	Average of 4 frequencies: .5, 1,2,3kHz. % H.L. is computed accord-to AAOO formula.	100% H.L = 35%	Compensation based on loss or reduction of function of body. Benefits can be paid based on lost wages.
Canada	Average of 3 frequencies: .5, 1,2kHz.No percen-tage H.L. computed.	Total H.L. in both ears=15%	Compensation calculated for projected loss of earnings.
Denmark	Use clinical tests to assess hearing handicap.		Compensation based on speech perception and not pure-tone hearing thresholds.

Compensation can limit the implementation of effective hearing conservation programmes

Calculation of Compensation in South Africa

In South Africa, compensation for hearing loss is calculated according to the AAOO (1959) formula which uses the 3 frequencies of 500, 1000 and 2000Hz and does not include 3000Hz as recommended in the newly revised AAOO (1979) formula. The major difference between countries occurs when calculating the percentage disability (PD).

1. The air conduction hearing threshold levels are measured at 500, 1000, 2000, 3000 Hz for each ear. This gives the average hearing level for each ear.
2. The average hearing level is equal to 1.5% for each dB that the above average exceeds the 25dB low fence (re: ANSI-1969). This computation gives the pecentage hearing loss.

3. The binaural percentage hearing loss is computed by multiplying the percent hearing loss of the better ear (lower percentage) by five, adding it to the percent hearing loss for the worse ear, and dividing the total by 6.

$$\% \text{ hearing loss} = \frac{5 \times \%HL \text{ (better ear)} + \%HL \text{ (worse)}}{6}$$

Disability is a concept relating to decreased ability to perform one's daily work.

Any worker with a percentage hearing loss under 25% is not eligible for compensation. The WCA, referring to compensation for impairment of hearing in cases which constitute a "disability", states that "an impairment up to 25% is generally regarded as a mild loss of hearing which is not disabling for employment". A worker with a 26% hearing loss can claim to have 1% permanent disability.

Total hearing loss in both ears equals a 50% disability.

The compensation is proportional to the percentage disability and monthly earnings at the time of the application. It does not take into account the actual loss of earnings or compensate for loss of quality of life.

Conclusions

It is clear that there is little agreement internationally on how to compensate the worker with a NIHL. Perhaps this is due to the poor understanding of the extent to which a hearing loss affects the quality of life. This lack of understanding is shown not only by the percentage disability assigned to hearing loss (in terms of percentage disability of the whole body) but also the formula used to compute average hearing loss. This is particularly so in South Africa.

Recent studies have shown that no longer can the speech frequencies only be defined as 500 - 2000Hz but that 3000Hz and 4000Hz are important for speech discrimination. It is common knowledge that workers with a NIHL have the greatest amount of hearing loss at the higher frequencies. A hearing disability is primarily a communication disability and perhaps the rationale behind the average hearing loss formula should be re-examined, with more serious consideration given to the Danish approach.

The value placed on hearing is minimal compared to that of any other part of the body. A worker who loses a thumb has 25% disability. In order to obtain the same percentage disability for hearing, a worker has to show a 58% hearing impairment which means an average hearing loss in both ears of about 70dB. The percentage disability assigned to hearing loss should take into account the loss of quality of life.

Furthermore, compensation should be provided when there is loss of earnings and the loss of earnings should be based on the projected loss of earnings.

This article was written by the Technical Advice Group (TAG)

Examples of Compensation in Different Countries

Audiogram: Hertz:	125	250	500	1 000	2 000	3 000	4 000	6 000	8 000
Right ear:	25	30	40	50	60	65	80	80	70
Left ear:	30	30	40	50	60	60	75	80	65

The worker is assumed to earn R400.00 per month or approximately R92.40 per week.

Country	A.H.L.*	Disability	Compensation	Special Compens.
South Africa	50	9%	R1800.00	Increased comp if worker can prove employer negligence
Canada	50.50	6.5%		If loss of earnings occur, comp equals the projected loss of earning
USA (New York)	52,5		R5729.	
UK		29%	18.96 pounds per week or R62.56 per week	Compensation called weekly disablement pension. This is independent of monthly wage. Reviewed annually

** A.H.L.: Average Hearing Loss. The definition is different for different countries*

COMPENSATION UNDER THE SECOND SCHEDULE OF THE WCA

Compensation legislation in South Africa is at present complex and non-uniform. At the present time, compensation falls under two Acts of Parliament. They are:

- The Occupational Diseases in Mine and Works Act (ODM&WA), number 78 of 1973.
- The Workmen's Compensation Act (WCA), number 30 of 1941.

Mining diseases are covered in the ODM&WA, but there is is no separate legislation for diseases in other industries. This may be due to the fact that up until now, very few claims for occupational diseases have been made under the WCA. It is also for this reason that claims for diseases under this act are considered by the Workmen's Compensation Commissioner (WCC) as accidents.

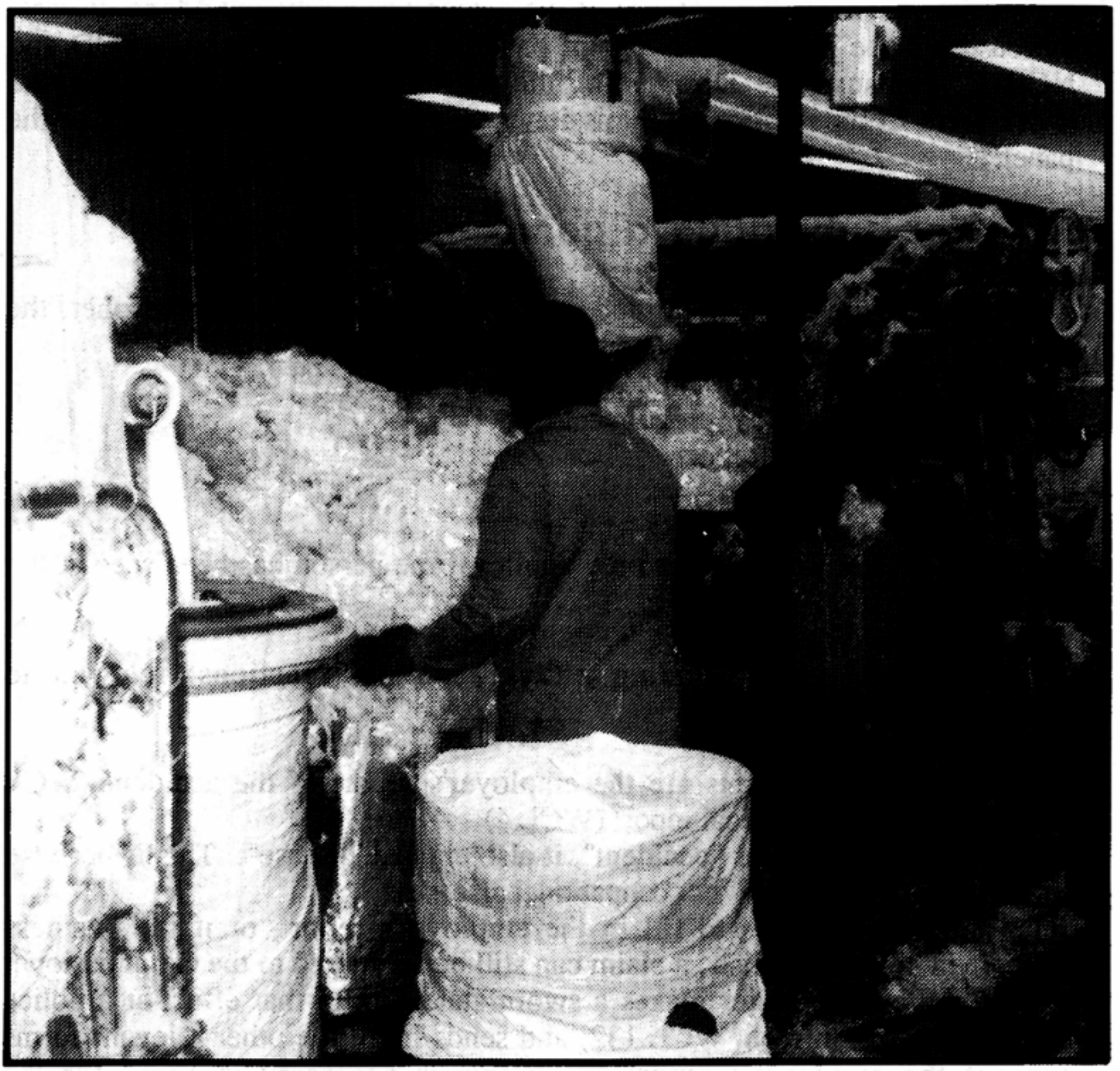
The Second Schedule

The Second Schedule of the WCA contains a list of occupations and related diseases which are compensatable by law. The list of diseases is based on the principle of presumptive causation, i.e. if a workman becomes disabled or dies of a scheduled disease and was employed in the corresponding occupational field within the last 24 months, it must be assumed that the disease was due to that occupation even though no incident can be identified.

With occupational lung disease due to mineral dust, the presumption arises from any past occupation of the worker in a dusty environment. For example, a worker who has asbestosis, can claim compensation for work he did 20 years previously at an asbestos mill. The disadvantage to the worker is that compensation will be calculated on his salary at the time of exposure.

Before compensation is awarded, the Commissioner must be satisfied that:
- the workman is suffering from a scheduled disease due to the nature of his/her employment and is unable to work because of the disease, and
- that the workman has not previously suffered from the disease.

The Second Schedule lists diseases considered to be industrial diseases. However, any disease which can be shown to be job- related, will be considered by the Commissioner.



Byssinosis from exposure to cotton or linen dust is one of the diseases compensatable under the Second Schedule

Procedures for claiming under the Second Schedule

Any health professional, when dealing with a potential occupational disease, has to have a high index of suspicion. If the doctor decides that the patient may be suffering from an occupational disease, he/she has a choice of two procedures:

- He/she can submit the claim independently with all the necessary documentation to the Commissioner. The Commissioner will usually refer such cases to the Director of the Medical Bureau for Occupational Diseases (MBOD)in Johannesburg.
- The case may be submitted to the National Centre for Occupational Health Clinic (NCOH) in Braamfontein, Johannesburg. The doctors there will then do a full medical occupational check-up on the person and refer the person to appropriate channels if necessary. If the person has a scheduled lung disease, the case will be presented to a joint panel of doctors from the MBOD and NCOH. Because the Director of the MBOD is part of the panel, the Workmen's Compensation Commissioner tends to accept the decision of the panel.

Forms for submitting a compensation claim

In order for a claim to be submitted and processed by the Commissioner, the following forms need to be completed:

- WCL.3 - Claim for compensation completed by worker
- WCL.2/100 - Employer's report of accident
- WCL.4 - First Medical Report
- WCL.111 - Medical Report
- WCL.110 - Industrial History
- SMB 27/9 - Panel Report - this only applies if the person has been seen at the NCOH.
- WCL.53 Dermatological Report
- All medical reports (including x-rays and lung functions) relevant to occupational diseases.

It is important to note that:

- The most important forms are the employer's report of the accident (WCL 2/100) and the first medical report (WCL.4)
- Where the form mentions "accident", it also entails "disease". This is because there is no separate form for occupational diseases.
- If the employer refuses to fill in the employer's report, or if the business concerned no longer exists, a claim can still be submitted to the Commissioner provided that the worker makes a sworn statement to that effect at a police station and fills in form WCL.132, and sends in all the other relevant forms (except the employer's report). All this is necessary in order for the Commissioner to proceed with the claim.

All the above forms are available from:
The Workmen's Compensation Commissioner
P.O. Box 955
Pretoria
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DIRECTIONS TO MEDICAL PRACTITIONER / HOSPITAL

(a) Only the Workmen's Compensation Commissioner shall decide whether liability in respect of an accident should be accepted in terms of the provisions of the Act.

penses cannot be paid from

the Workmen's Compen-
e required to be filled in.

taken to ensure that the full
ist be sent to the employer
tal together with this form.

account is still unpaid after
d specified account must be

PHONE 323-9911
X 3-20171 *

W.CL. 2/100 (E)

WORKMEN'S COMPENSATION ACT, 1941.
(Section 51 — Regulation 9(2) — Annexure 10)

EMPLOYER'S REPORT OF ACCIDENT

(For official use only)

Claim No. .....

N.B. This report is required in addition to any report to be submitted to the Divisional Inspector, Department of Manpower under the Factories, Machinery and Building Work Act.

DIRECTIONS FOR COMPLETING OF FORM BY EMPLOYER

1.0 Whenever a workman meets with an accident arising out of and in the course of his employment resulting in a personal injury for which medical treatment is required, this form must be completed by the employer in the following manner:-

Step 1 Complete "Part A"
Step 2 Sign and date form w
Step 3 Detach "Part B" (an
Step 4 Hand "Part B" to t
"Part B" to the m
medical practitio

Step 5 Fill in page 2 of "P
Step 6 Forward filled i

The Workmen'
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WORKMEN'S COMPENSATION ACT, 1941.
(Section 51 — Regulation 9(2) — Annexure 10)

EMPLOYER'S REPORT OF ACCIDENT

(For official use only)

Claim No. .....

PART A
PAGE 1

DECLARATION BY EMPLOYER

I/We hereby declare that the particulars, shewn in items 1 to 14 of this report, of an alleged injury on duty, are to the best of my/our knowledge and belief true and accurate

Signed on this ..... day of ..... 19 .....

IMPORTANT ➡ SIGNATURE OF EMPLOYER

1. **EMPLOYER:—**
Registered name with Workmen's Compensation Commissioner (block letters) .....
Address .....
Postal Code ..... Tel. Address ..... Telephone ..... Telex No. .....
Nature of business, trade or industry .....
Plant, or particular section in which workman is employed .....
Situation of business/farm .....
Your registration number as allocated by the Workmen's Compensation Commissioner to this Business/Farming undertaking must be filled in

2. **WORKMAN:—** (Indicate race with an X) White [ ] Asian [ ] Coloured [ ] Black [ ]
Surname (block letters) .....
First names (block letters) ..... Ethnic group ..... (if applicable)
Residential Address ..... Tribe ..... (if applicable)
.....
Identity No. ..... Postal code .....
Date of birth ..... Sex ..... Married or Single ..... Company No. .....
Occupation .....

EARNINGS (at the time of the accident):—

	If paid per WEEK R	If paid per MONTH R
(a) Cash wages/salary (excluding allowances)		
(b) Cost of living allowance (paid in cash)		
(c) Other allowances: Overtime pay, etc., (specify and indicate whether they are of a regular and constant nature)		
(d) Value of free food		
(e) Value of free quarters		

3. **ACCIDENT:—**
(a) Date of accident ..... 19 ..... Time .....
(b) Place of accident ..... District .....
(c) Date workman reported the accident ..... 19 ..... Time .....
(d) How did the accident occur and what was the workman doing at the time? .....
(Describe the accident fully, stating whether the injured person fell or was struck, etc., and all the factors contributing to the accident.)
(e) Was his action at the time of the accident in connection with your trade or business? .....
(f) Are you satisfied that the workman was injured in the manner alleged by him? (If not, please give reasons) .....
(g) Nature of injury sustained by workman (e.g. broken left leg, index finger of right hand crushed, cut to head or piece of metal in eye) .....
4. Is the injured person a working director or the owner of, or a partner in the business? .....

⬅ PART A PAGE 2 Must also be completed, please.

WCL.2/100 - Employer's report of accident

CONFIDENTIAL

WORKMEN'S COMPENSATION ACT, 1941

Claim No. .....

FIRST MEDICAL REPORT

Not to be issued by Medical Practitioner who gives only emergency (single visit) treatment, but by Medical Practitioner in permanent charge of case.

FORM APPROVED BY THE WORKMEN'S COMPENSATION COMMISSIONER

(Reference to the Workmen's Compensation Act Wcl. 26 will assist in the completion of this form.)

Surname of Injured Workman ..... Race .....

First Name(s) ..... JNO. BLOCK C WORKER HUTCH, SALISBURY

Address .....

Name of Employer ..... J. C. Company.

Business Address: ..... PUTCLIFFE RD.

1. (a) Time and place of first attendance by you. — Date ..... 20: 1: 19.91 Time ..... m. Place .....
   (b) Has the workman previously been attended for this accident by any other registered medical practitioner (other than your partner or assistant)?* If so, by whom?

2. WHEN and HOW did alleged accident happen? — Date ..... 19.... Time ..... m. Place .....
   DISEASE EXPOSED TO ASBESTOS DUST AT J.C.C. 1951 - 1955

3. Full clinical description of injury(ies) (precision is essential, and technical terms may be used). (See page 2 of Wcl. 26) — ASBESTOSIS

4. In your opinion, is the workman's condition due to the accident described in item 2 above? — YES

5. (a) Describe briefly any pre-existing defect or disease evident at the time of examination.
   (b) State whether it is likely to retard or complicate recovery.
   (c) Have you advised/instituted concomitant treatment for it? — / N/A

6. X-RAY EXAMINATIONS:
   (a) Please attach original or full copy of Radiologist's written report. — Date ..... By whom made ..... See MEDICAL REPORT
   (b) Please state whether at hospital.

7. SURGICAL OPERATIONS (including setting of fractures and reduction of dislocations). — Date .....
   ANAESTHETICS: Brief Note ..... N/A
   Local or general anaesthetic used? ..... Nature .....
   If general? ..... (a) Duration ..... minutes (b) By whom .....

8. (a) Have you had a consultation? If so with whom, where and on what date? Please furnish relevant report.
   (b) Have you ordered physiotherapy? If so, by whom and on what date?
   (c) Is permanent disability likely to result? State nature.
   N.B. If you intend to claim on a visit basis, do you think that more than 20 visits may be necessary? — YES. AT RISK FROM INCREASING BREATHLESSNESS & MESOTHELIOMA

9. (a) Is he unfit for his work? If so,
   (b) On what date, in your opinion, is he likely to be fit for his usual work? — FIT FOR WORK

10. Any further remarks — /

I certify that I have, by examination, satisfied myself that the condition of the workman as result of the accident is as described above.

Date .....

Signature of Medical Practitioner .....

Name in BLOCK LETTERS .....

Registered Address .....

Note: This form must be handed back to injured workman or passed to his/her employer.

* A single emergency treatment must be noted, but need not prevent taking over the case. If more than one, the case should not be taken over unless the rule of G.M.C. regarding supersession has been observed

W.C1.4

WCL.4 - First Medical Report

Reference No.

WORKMEN'S COMPENSATION ACT 1941 (ACT 30 OF 1941) AS AMENDED

MEDICAL REPORT

NAME OF WORKMAN .....

RACE OF WORKMAN .....

IDENTITY OR NATIONAL IDENTITY NO. .....

N.B. IT IS ABSOLUTELY ESSENTIAL THAT THIS FORM SHOULD BE COMPLETED IN DETAIL.

1. What are the workman's general complaints? .....
   Is he for example, short of breath? .....
   (a) Always - even when at rest? .....
   (b) After exertion, for example, after walking 100 yards on the level? .....
   (c) After walking 500 yards? .....
   (d) Only after walking up hill? .....
2. Has he any pain in the chest? .....
   (a) On exertion? .....
   (b) Without exertion? .....
3. Is his cough dry or with phlegm? .....
   What is the colour of the phlegm? .....
   (a) Clear? .....
   (b) Yellowish green? .....
   (c) Dark? .....
   (d) Blood stained? .....
   (e) What is the amount produced
4. Do his feet swell? .....
5. On how many pillows does he
6. VERY IMPORTANT: To wh
   (a) Ordinary heavy work?
   .....
   (b) Moderate work? (les
   (c) Light work (that is,
   age) .....
   (d) No work? .....
7. What other factors ha
   (a) Heart ailment?
   boels) .....
   (b) Emphysema
   (c) Other ailm
   .....
   (d) Arthriti
   .....
8. To what deg
   .....
   (a) Wh
   (b) P
   (c)

DAT
WCL

ONGEVALLEWET, 1941 — WORKMEN'S COMPENSATION ACT, 1941
(Artikel 54 Regulasie 10-Aanhangsel 11 / (Section 54-Regulation 10-Annexure 11)

EIS OM SKADELOOSSTELLING — CLAIM FOR COMPENSATION

Hierdie vorm moet deur of ten behoewe van die beseerde werksman ingevul en aan die Ongevallekommissaris, Posbus 955, Pretoria, 0001 gestuur word / This form must be completed by or on behalf of the injured workman and sent to the Workmen's Compensation Commissioner, P.O. Box 955, Pretoria 0001.

Eisnommer
Claim number

1 WERKSMAN — WORKMAN (BLOKLETTERS/BLOCK LETTERS)

Van/Surname

Voorname/First Names

Persoonsnommer/Identity Number

Adres/Address

Geboortedatum
Date of birth

Beroep/Occupation

Geslag
Sex

Getroud of ongetroud
Married or Single

Ras van werksman
Race of workman

Poskode
Postal Code

2 WERKGEWER — EMPLOYER

(i) Naam/Name

(ii) Adres/Address

Poskode
Postal Code

3 VERDIENSTE — EARNINGS

	Indien per week besoldig / If paid per week	Indien per maand besoldig / If paid per month
(a) Loon (uitgesonderd toelaes)/Wages (excluding allowances)		
(b) Lewenskoste-toelae /Cost of living allowance		
(c) Ander toelaes (vermeld aard)/Other allowances (specify nature)		
(d) Waarde van vry voedsel/Value of free food		
(e) Waarde van vry huisvesting/Value of free quarters		
	R	

4 ONGEVAL — ACCIDENT

(i) Wanneer en waar het die ongeval voorgekom?/When and where did the accident occur? Datum / Date ..... Tyd / Time ..... Plek / Place .....

(ii) Wat het die werksman op daardie tydstip gedoen en hoe het dit plaasgevind?/What was the workman doing at the time and how did it occur?

(iii) Gee 'n volledige beskrywing van die aard en omvang van die besering/ Describe in detail the nature and extent of the injury

(iv) (a) Het iemand die ongeval sien gebeur?/ did anybody see the accident happen? Naam/Name ..... Adres/Address .....

(b) Het iemand anders op daardie tydstip geweet dat dit gebeur het?/Was any other person aware of its occurrence at the time? Naam/Name ..... Adres/Address .....

5 (a) As die ongeval die DOOD van die werksman ten gevolge gehad het, moet onderstaande inligting betreffende sy naasbestaandes ten behoewe van wie die eis ingestel word, verstrek word./If the accident resulted in the DEATH of the workman, the following information relating to his dependants, on whose behalf the claim is made, should be given.

Volle Naam/Full Name	Adres/Address	Datum van geboorte / Date of birth	Verwantskap met werksman / Relationship to workman

(b) In die geval van alle ANDER ongevalle, moet die onderstaande inligting betreffende die naasbestaandes van die werksman verstrek word./In the case of all OTHER accidents, the following information should be furnished in regard to the next-of-kin of the workman:

Volle Naam/Full Name	Adres/Address	Verwantskap/Relationship

6. Skadeloosstelling ingevolge die Ongevallewet, 1941, word hierby geëis ten opsigte van die ongeval wat hierin beskryf is /Compensation in terms of the Workmen's Compensation Act, 1941, is hereby claimed in respect of the accident described above.

DATUM/DATE

WCL3

Handtekening van eiser of persoon wat ten behoewe van hom optree
Signature of claimant or person acting on his behalf.

WCL.3 - Claim for compensation completed by worker, and WCL.111 - Medical Report

Problems after the submission of a claim

One hopes that the problem is over once all the forms have been completed. But in many respects, this is only the beginning and this has to be fully explained to workers when submitting a claim. Some of the problems experienced are listed below:

- Claims can take up to two years before they are processed. this delay often causes increased hardship for workers who may well be unemployed and in need of medical care. It is important to note that medical costs are refunded only if the claim is accepted, but until such time, the costs have to be borne by the worker (or doctors).
- Money may stop coming after the compensation has been awarded. One reason for this is that the Commissioner's office may require a copy of the birth certificate; it can save a lot of time and effort if this documentation is submitted along with the claim.
- Migrant workers face particular problems
    - Bureaucratic problems in relation to receipt of benefit.
    - Occupational lung diseases in particular have a long latency period. These workers may live in the "homelands" where health services are patchy. Though health professionals there might have a high index of suspicion for TB, a low index may well exist for occupational lung diseases.
    - Workers who have been diagnosed as having occupational diseases may well be lost to follow-up.

Extending the range of scheduled occupational diseases

The number of diseases in the Second Schedule are relatively few. Notable ommissions are TB, Chronic Obstructive Airways Disease (COAD) (compensatable on the mines), occupational asthma, and occupational cancer, in particular lung cancer.

It appears that the only way to extend the existing list is to submit cases to the Commissioner. If a number of cases with the same disease and proposed aetiology are submitted, the Commissioner is required to hold an enquiry to assess whther it should be included on the Schedule. This would undoubtedly make it easier for the claimant as well as the health professional.

THE SECOND SCHEDULE: OFFICIAL LIST OF COMPENSATABLE OCCUPATIONAL DISEASES

Description of Disease	Description of Occupation
Ankylostomiasis (hookworm) in workmen other than Asiatics or Blacks	Mining carried on underground.
Anthrax	The handling of wool, hair, bristles, hides and skins. Work in connection with animals infected with anthrax. Loading, unloading or transport of goods.
Arsenical poisoning	Any work involving the use of arsenic or its preparations or compounds.
Poisoning by benzene or its homologues and their nitro and amino derivatives and its sequelae	Any work involving the production or use of or contact with benzene or its homologues or their nitro and amino derivatives.
Cyanide rash	The handling of cyanide or any work involving the use of cyanide.
Dermatitis due to dust, liquids or other external agents present in the specific process or processes of the workman's occupation	
Halogen derivatives of hydro-carbons, poisoning by the	Any work involving the manufacture or use of or contact with the halogen derivatives of hydro-carbons.
Lead poisoning or its sequelae	The handling of lead or its preparations or compounds or any work involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae..	Any work involving the use of mercury or its preparations or compounds.
Pathological manifestations due to radium and other radioactive substances or X-rays	Any work involving the use or exposure to the action of radium or other radioactive substances or X-rays.
Phosphorus poisoning	Any work involving the use of phosphorus or its preparations or compounds.
Silicosis, asbestos or other fibrosis of the lungs caused by mineral dust	Any occupation (other than a "dusty atmosphere" as defined in the Pneumoconiosis Act, 1936), in which workmen are exposed to the inhalation of silica dust, asbestos dust or other mineral dust.
Primary epitheliomatous cancer of the skin ..	Any work involving the handling or use of tar, pitch, bitumen, mineral oil or paraffin.
Manganese poisoning	Any work involving the use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of or substance containing manganese.
Byssinosis	Any occupation in which a workman is exposed to the inhalation of cotton or linen dust.
Mesothelioma	Any work which involves the handling or use of asbestos or exposing the workman to asbestos dust caused by the use of asbestos in connection with the employer's business.

(Workmen's Compensation Act, 1941; Second Schedule)

The 1987 EDA Calendar

Members of a women's group from Atholi in Gazankulu show watermelons they have grown in their fields. The groups work together on community projects.

Amalungu amakhosikazi ebandla lase Atholi eGazankulu abonisa ikhabe kumasimu abo. Ibandla lisebenza kwingubela yabakhi.

Maloko a mokgatlo wa basadi wa Atholi ba laetsa magapu ao ba a bunnego masemong a bona. Mokgatlo wo o dira moreno wa setshaba.

The 1987 EDA Calendar is a twelve page A3 size calendar in black and white. It costs R2.00 per copy including postage and GST.

To order copies fill in your name and address on the form and send it with a postal order or cheque to EDA, P.O. Box 62054, MARSHALLTOWN, 2107 Johannesburg.

Name.....

Address.....

.....

.....

HOW IS ACCIDENT AND DISEASE COMPENSATION CALCULATED?

The issue of compensation for accidents and disease (contracted outside of the mines) is a difficult one, frought with frustration for the individual worker concerned, and time- consuming for the health professional involved.

This article will show, in a step-by-step manner, how compensation is claimed under the Workmen's Compensation Act (WCA). It is important to note that with regard to industrial accidents, the Act covers all workers, including miners)

Benefits

A worker is entitled to the benefits of the Act if he/she sustains an injury or contracts an illness as a result of an "accident" arising out of and in the course of his/her employment, or if he/she has contracted an industrial disease due to the nature of the occupation.

Employees not covered by the Workmen's Compensation Act

The following categories of employees are not covered by the WCA:

- National servicemen
- Persons employed casually for a purpose other than the employer's business
- Domestic workers in private households or in boarding homes which employ fewer than six domestic workers
- Outworkers who make up or alter articles for an employer not on his/her premises

- Subcontractors, unless included in the assessment statement submitted to the Workmen's Compensation Commissioner (WCC)
- Workers earning more than R24 000 per year.

Categories of award

Awards are paid within the following categories:
a) medical expenses
b) temporary disablement
c) permanent disablement.

a) Medical expenses

If the accident or disease was reported in the prescribed way, the worker will be refunded the money he/she had to spend on medical treatment as the result of the accident or disease. The medical expenses will be re-imbursed for a period of up to two years by either the Workmen's Compensation Commissioner, or by the employer if found to be individually liable.

In practice, what usually happens is that the employer (unless the worker has lost his/her job in the process) meets the costs of the medical bills and then claims for recompensation to the Commissioner.

b) Temporary disablement

i) Temporary total disablement

Temporary total disablement is the temporary inability of the worker to perform any work as a result of the accident. Examples of temporary disabilities are fractures, sprained ankle, burns (necessitating hospitalisation) requiring treatment that lasts for more than two weeks.

No compensation is payable in respect of the first three days of any disablement which lasts for less than two weeks. Where disablement lasts for two weeks or longer, compensation is payable in respect of the entire period.

Compensation is payable to an injured worker, during temporary total disablement, by way of periodical payments at a rate of 75% of his monthly earnings up to R600, plus 50% of such earnings above R600 to a maximum of R1 300 per month. The maximum compensation for temporary total disablement is thus R800 per month.

For example: If a worker earns R800 per month:

75% of R600 = R450
50% of R200 = R100
Total = R550
The total compensation is R550 per month.

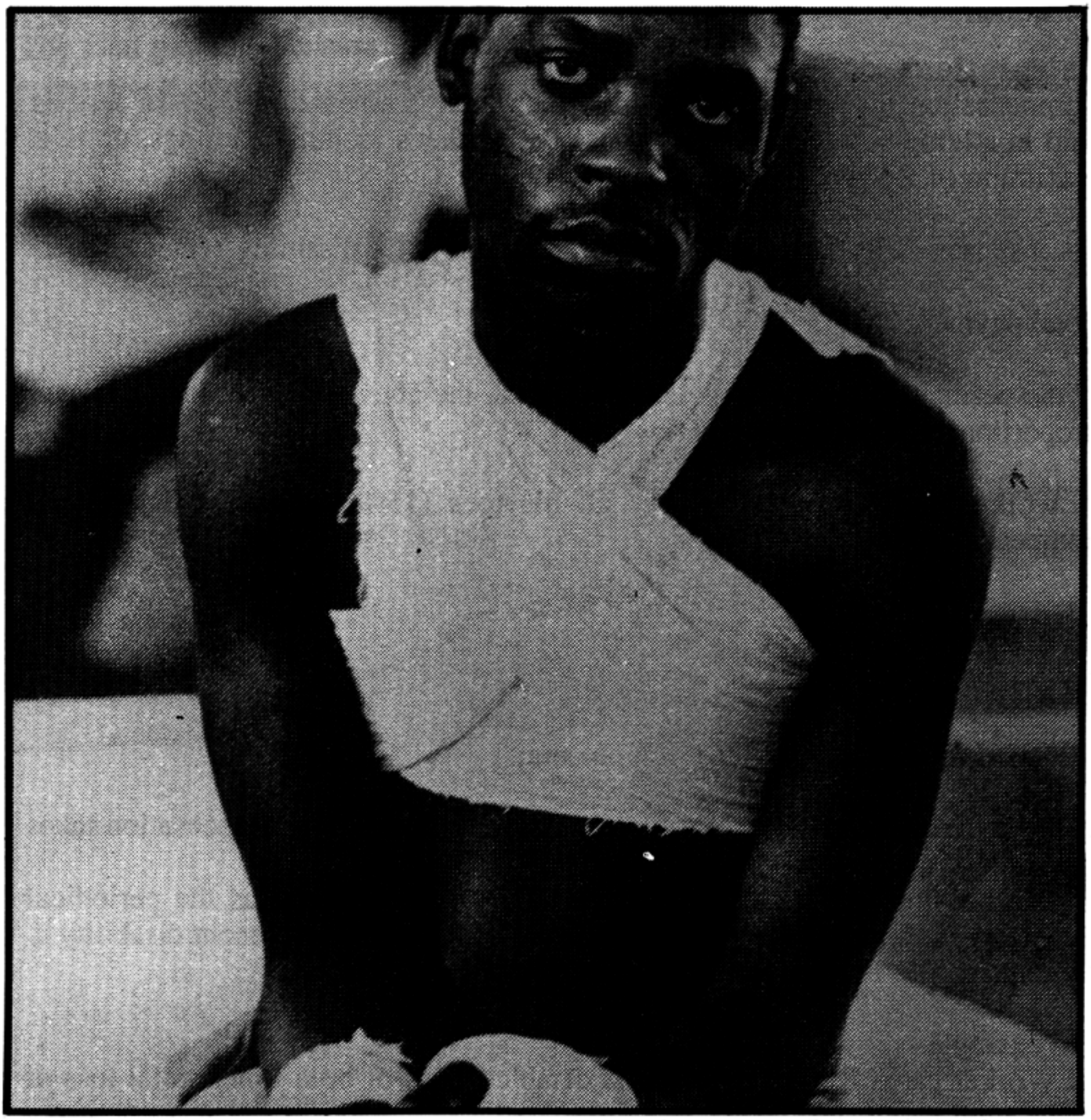
ii) Temporary partial disablement

In some instances, the worker returns to work but is unable to perform the whole of his former work, or to resume work at the same earnings.

For instance: A worker who has fractured his arm may be asked to return to work and do a cleaning job, whereas prior to the accident he may have been a machine operator or team leader in a mine. This works to the advantage of the employer because if a worker is relocated to another job, the employer's accident statistics will not be as high. But this may well be a disadvantage to the worker in terms of his/her discomfort as well as compensation.

Compensation in these circumstances is: some fraction of the payment in respect of temporary total disablement as decided by the Commissioner. Unfortunately, no criteria are laid down with regard to this decision.

Where the temporary total disablement lasts longer than 18 months, the disability for the purposes of compensation becomes a permanent one.



Job relocation disadvantages the worker in terms of compensation

c) Permanent disability

A condition is regarded as permanent if:
- a worker loses a limb as a result of an industrial accident
- when it is apparent that there is no reasonable likelihood that the worker's condition will improve within a reasonable period.

In terms of the WCA, the Commissioner alone makes assessments of permanent disablement. It is not the function of the doctor to make assessments, but where he/she has the necessary experience of compensation awards to express an opinion on the percentage of disablement, this is often helpful to the assessing officers. Because the only point in expressing such an opinion would be to help the Commissioner, the doctor should express his/her opinion only to the Commissioner when requested to do so. The doctor should under no circumstances disclose his/her estimate of the permanent disablement to the worker.

Calculations

Compensation for permanent disablement which is assessed at 30% or less, is paid in a lump sum, based on 15 times the worker's monthly earnings, up to a maximum of R600.

For instance: A worker earns R400 and loses an eye (% disability 30%):

Total payment = 15 X 400 = R6000.

If the permanent disability is less than 30%, the above calculation is reduced proportionately, for example:

A worker earns R400 and loses all his toes (15% permanent disability), compensation is

$$\frac{15}{30} \times \frac{1}{2} \times R400 \times 15 = R3\,000$$

The worker receives R3 000 as a lump sum.

If the degree of permanent disablement is more than 30%, compensation takes the form of a monthly pension.

The pensions for total disablement (100%) are the same as the periodical payments for temporary total disablement. If a worker's permanent disability is more than 30% but less than 100%, a pro rata pension is paid.

For example:
1) Worker earns R800 and is 100% disabled (loss of both limbs, total loss of sight, total paralysis):

75% of R600 = R450
50% of R200 = R100
Total = R550
The total monthly pension is R550.

2) Worker earns R800 and is 40% disabled (loss of 4 fingers)

75% of R600 = R450
50% of R200 = R100
Total = R550
Worker is only 40% disabled.

Total monthly pension = $\frac{40}{100} \times \frac{550}{1} = R220$
The total monthly pension is R220.

A condition is regarded as permanent if a worker loses a limb as a result of an industrial accident

Death of the worker

If a worker dies as a result of an accident, his widow is entitled to the payment of:

- a lump sum of R600 or twice the worker's monthly earnings, whichever is the lesser
- a monthly pension equivalent to 40% of the pension to which the worker would have been entitled to if he had been totally and permanently (100%) disabled.

Each child under 18 years of age is entitled to a monthly pension equal to 20% of the pension that would have been payable to the worker if he had been totally and permanently (100%) disabled, provided that the combined pension payable to the widow and children does not exceed the pension that would have been payable to the worker if he had been totally and permanently disabled.

On re-marriage, the widow's monthly pension continues and only stops at her death.

The applicaion is made on forms
WCL.114 - Claim for compensation
WCL.32 - Declaration by widow

For example: Worker was earning R700 per month at the time of his/her death:

75% of R600 = R450
50% of R100 = R 50
Total = R500

$$\text{Widow/Spouse gets } \frac{40}{100} \times R500 = R200 \text{ per month}$$

$$\text{Child/Children get } \frac{20}{100} \times R500 = R100 \text{ per month}$$

It is important to note that only three children will be provided for up till the age of 18 years, under the WCA.

Burial expenses

The WCA provides for payment of burial expenses up to a maximum of R650. This is meant to cover the costs of the coffin, shroud, grave, hire of hearse, storage, and transport of body.

Form WCL.46 has to be filled in for this and receipts must be attached to this form.

Dependants' pensions in independent homelands and Lesotho are paid through official Government Departments.

Scheduled industrial diseases

Compensation for industrial diseases on the Second Schedule of the WCA is calculated as if the disablement or death from disease was caused by an accident.

A disadvantage for the worker is that compensation is calculated on the worker's salary when he/she was last employed in the occupation from which the disease arose.

Experience in this area has been primarily with occupational lung disease and therefore our discussion will be centred around this.

Presently, under the WCA, four grades of disability for pneumoconiosis are recognised, i.e. 20%, 40%, 70%, and 100%. the degree of disability is determined on the basis of

- occupational history
- chest x-ray
- lung function tests.

Hence a worker who only has an exposure history and x-ray changes, will be classified as 20% disabled and will get a lump sum payment. For example:

A worker earns R400 per month. Total lump sum payment is:

$$\frac{20}{30} \times R400 \times 15 = R4000$$

Until recently (1.11.1985), these workers (20% disabled) had been classified as 35% disabled, and were eligible for a monthly pension, as are the other grades of disability (40%, 70% and 100%).

This new system works to the disadvantage of low-paid workers because:

- the majority of industrial workers do not have access to good quality lung function tests, capable of detecting early impairment
- the diagnosis of lung function abnormality depends on appropriate reference values. These have yet to be agreed upon for black South Africans
- an abnormal chest radiograph without impairment may lead to difficulties for the individual worker on the job market. In industry, compensated workers may be the first to be retrenched with little prospect of employment elsewhere if their status becomes known.
- there is no statutory obligation to review these workers and they may well be lost to follow-up. The diseases in the meantime may well progress.

Increased compensation

This may apply when a worker has an accident which is due to:

- negligence of the employer or any other person entrusted by the employer

- a potent defect in the condition of the premises or machinery which the employer had knowingly failed to remedy.

Under these conditions, the worker may apply to the Commissioner for further compensation in addition to the compensation ordinarily payable. Form WCL.30 has to be submitted within six months of the accident.

If the worker requires constant care by another person, the Commissioner may grant an allowance towards the cost of such help.

Responsibilities of the medical practitioner

- Completing forms - it is important to realise that clerks will be dealing with the processing of a claim at the Commissioner's office. It is therefore imperative that the proper forms are fully submitted on behalf of the worker. If the doctor is unable to do this, it is imperative that he/she refers the worker to appropriate agencies.
  Forms tend to get lost. It is therefore important that doctors make copies of all forms submitted.
- It has already been mentioned that the Commissioner decides on the degree of permanent disability. However, this decision can be "influenced" by the information provided by the doctor. Therefore, descriptions of permanent disabilities should include the degree of loss of movement, precise measurements, the actual sites affected, loss of function, and similar relevant details. The use of anatomical terms is preferable.
  A patient's real social situation and interest should be borne in mind when assessing disability.
- The doctor should attempt to reach beyond the individual with a compensatable condition, be it accident or disease, to investigate the patient's working conditions. This may include advising workers, management, and union officials about the prevention of accidents and diseases.
- Occupational diseases:
  By law, there is no need for doctors to follow up patients once compensated. In practice, however, such a stance could be considered unethical. When seeing a patient with an occupational disease, the doctor should have a system of recall and review.

Objections and appeals

- A worker, if unhappy with the decision of the Commissioner may lodge an objection with the Commissioner within 60 days of being notified of the decision.
- The appeal may be made by the worker's trade union, employer or by the individual concerned.
- The objection is considered by the Commissioner with two assessors, one representing the worker, and the other the employer. This hearing has the form of a civil action.
- Finally an appeal against a decision of the Commissioner and the assessors may be made to the Supreme Court.

CLAIMING FOR OCCUPATIONAL DISEASES OF MINERS AND EX- MINERS

This section deals with workers who have an occupational disease from being exposed to hazards in a mine or works.

Compensation claims of workers suffering from occupational diseases are submitted under the Occupational Diseases in Mines and Works Act (ODM&WA) if the disease is listed in this Act, or under the Workmen's Compensation Act (WCA) if the disease is not listed in the ODM&WA

(The term "miner" is used to describe those who suffered the exposure on a mine or works. The term "coloured" is used in the Act and refers to individuals who are neither white nor black.)

SUBMISSION OF CLAIMS UNDER THE WORKMEN'S COMPENSATION ACT (WCA)

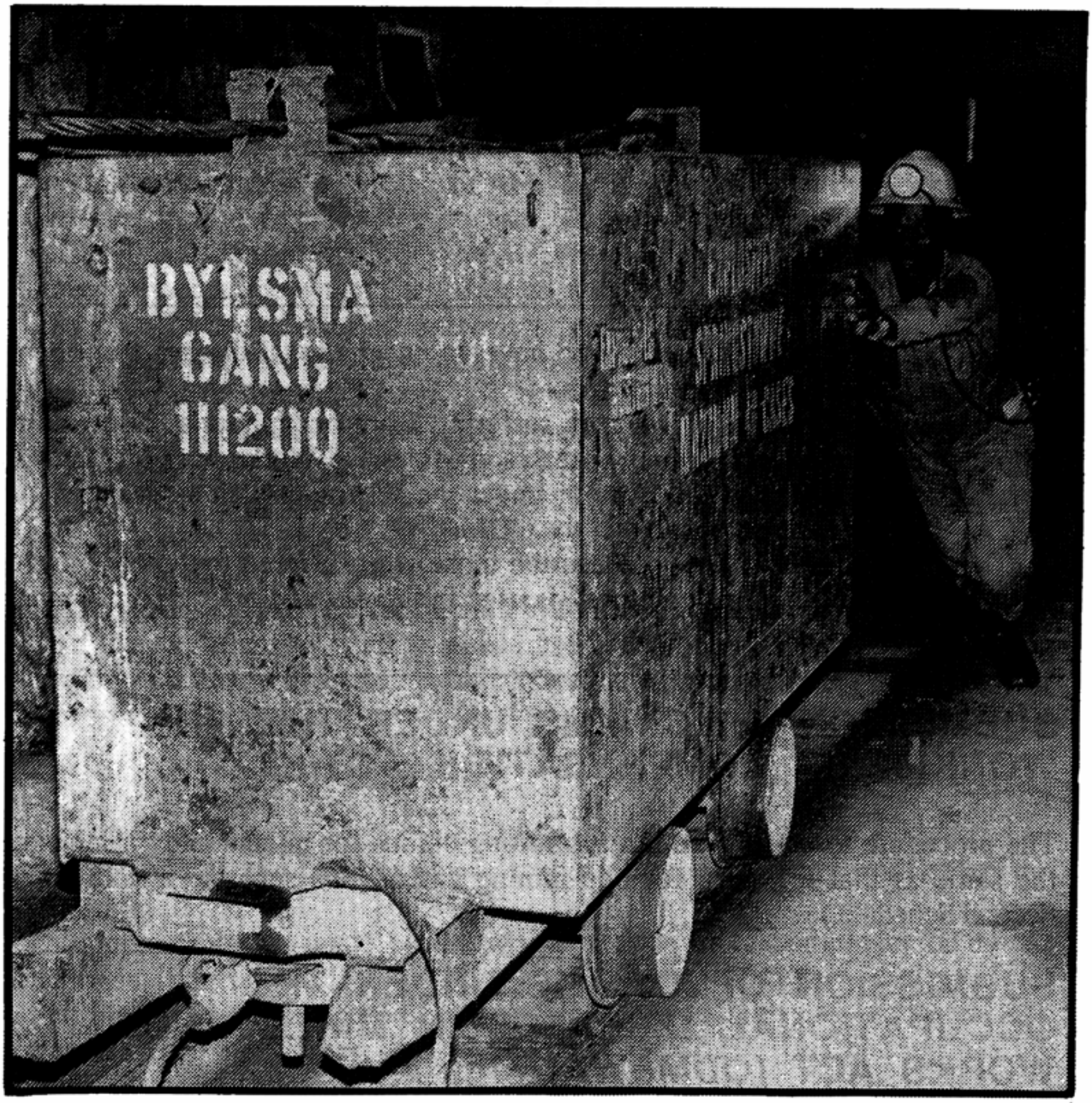
The procedure to be followed in submitting claims for miners and ex-miners is the same as that followed for non-mining cases. (See separate article on the Second Schedule.)

SUBMISSION OF CLAIMS UNDER THE OCCUPATIONAL DISEASES IN MINES AND WORKS ACT (ODM&WA)

An outline of the submission procedures is as follows:

- An examination to determine whether a compensatable disease is present is performed by a doctor. This examination is called a benefit examination.
- The doctor sends the details of the benefit examination to the Medical Bureau for Occupational Diseases (MBOD) in Johannesburg (address given at the end of this section).
- A Medical Certification Committee based at the MBOD reviews the details of the benefit examination and decides whether a compensatable disease is present; and for whites and coloureds, the Committee decides on the severity of the disease.

Since the ODM&WA discriminates on the basis of race, the method of submitting claims for compensation and the amount of money awarded is determined by the miner's race.



Compensation under the ODM&WA is determined by the miner's race

Diseases compensatable under the Occupational Diseases in Mines and Works Act (ODM&WA)

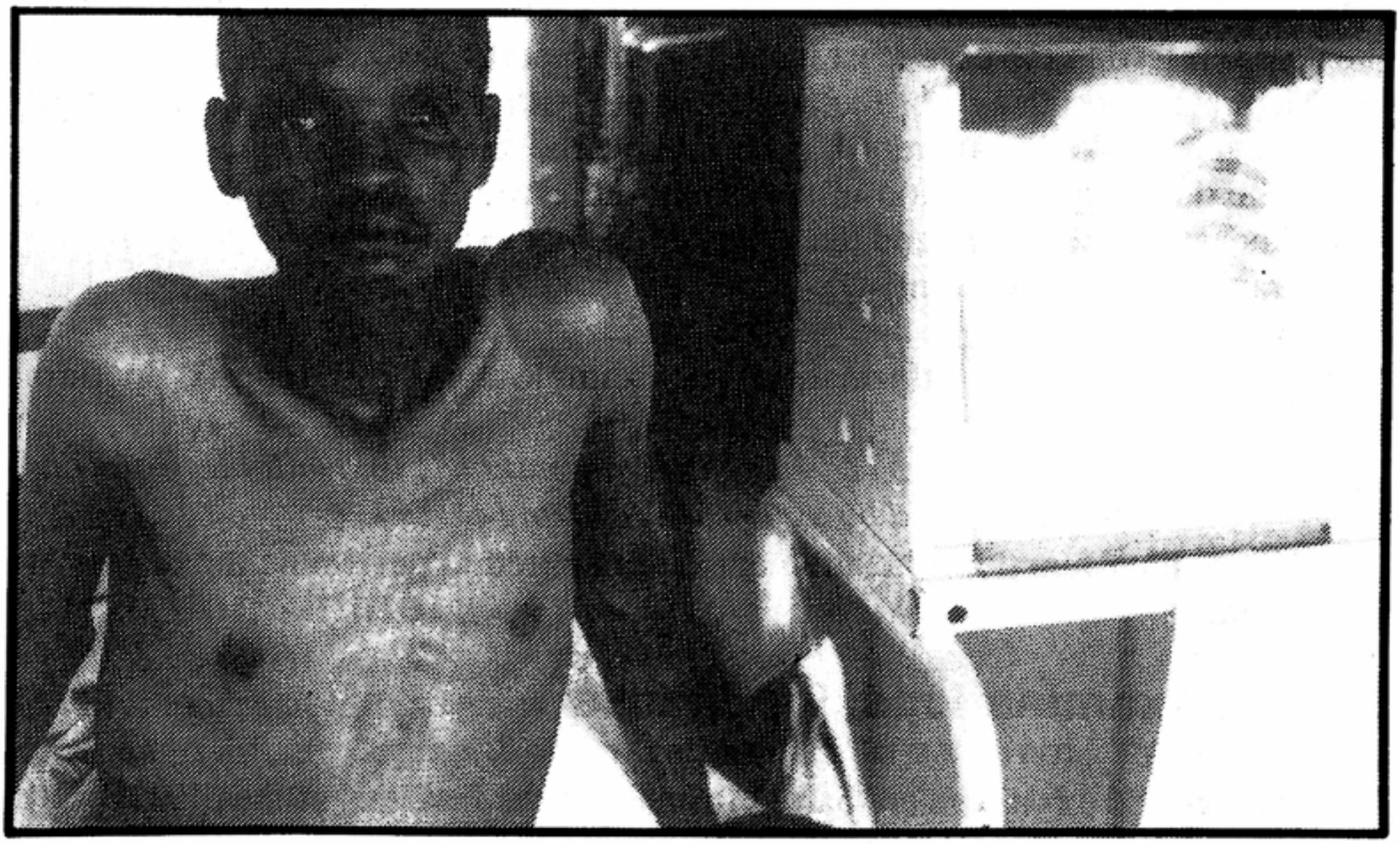
The following diseases are compensatable under the Occupational Disease in Mines and Works Act:

- Pneumoconiosis*
- Tuberculosis**
- Pneumoconiosis and tuberculosis
- Chronic obstructive airways disease*
- Progressive systemic sclerosis*
- Chronic Manganese poisoning*
- Any other permanent disease of the cardio-respiratory organs* (e.g. mesothelioma and cancer of the lung of workers exposed to asbestos)
- Any other disease which the Minister of Health declares a compensatable disease

(Which in the opinion of the Certification Committee arises from doing "risk work".*

*** Contracted while the worker was doing risk work, or within 12 months after he was last doing risk work. The Certification Committee may certify tuberculosis contracted in non-risk work, if it decides that the tuberculosis arose from workplace exposure, for example, hostel cleaners who are in contact with miners).*

"Risk work" means any work declared risk work by the Minister in consultation with the risk committee. In general, all underground work is risk work. For further details, contact the Director of the MBOD.



Mesothelioma is compensatable under the ODM&WA

Benefit examinations

An examination to determine whether a miner is suffering from a compensatable disease is called a benefit examination. A miner may apply at any time for a benefit examination. He/she is entitled to this examination at six-monthly intervals until he/she dies, or until he/she receives full compensation. The attending medical practitioner is responsible for ensuring that patients who may have a compensatable disease, receive a benefit examination.

The Certification Committee

The medical assessment of the results of the benefit examinations is performed by the Certification Committee of the MBOD in Johannesburg. This committee decides whether the worker concerned suffers from a disease that is compensatable. In the case of coloured and white miners, the Committee decides on the degree of impairment. There is a possibility of appeal to review the Certification Committee's decision. (Contact the MBOD for details). A patient's doctor may ask or be asked to attend the Certification Committee's meeting.

Benefit Examinations for whites and coloureds

A standard procedure is required for these examinations. For this reason, it is preferred that the examination is undertaken at the MBOD in Johannesburg. If the miner or ex-miner cannot travel to Johannesburg, for example when he is ill, the benefit examination may be undertaken at one of the sub-bureaux (addresses of these sub-bureaux are given at the end of this section), or by any other doctor. The doctor referring the case must include in the report:

- an adequate work history of the worker at the particular mines or works where he/she has worked. The report must include the name of the mines or works, and the duration and period of service at these workplaces, together with the worker's medical history and the results of his/her examination*
- chest radiographs (if relevant)
- lung function tests
- other relevant medical information; for example histiology reports, sputium MC&S.

(A special form, the MD 512 "Benefit Examination", is available from the MBOD and, if possible, should be used when referring cases.)*

Adequate lung function measurements are required to determine the degree of impairment.

Benefit examinations for blacks

Black miners and ex-miners are barred from using the facilities of the MBOD and sub-bureaux on the basis of race. This means that black miners do not have access to the sophisticated diagnostic facilities available to white miners, and that

they may be examined my medical practitioners less experienced in assessing occupational disease.

The "benefit" is usually performed on the mine where the worker or ex-worker is or was employed. The benefit examination may also be undertaken by the National Centre for Occupational Health (NCOH) (address given at the end of this section), the local Employment Bureau of Africa (TEBA) office, the district surgeon, or by any other doctor.

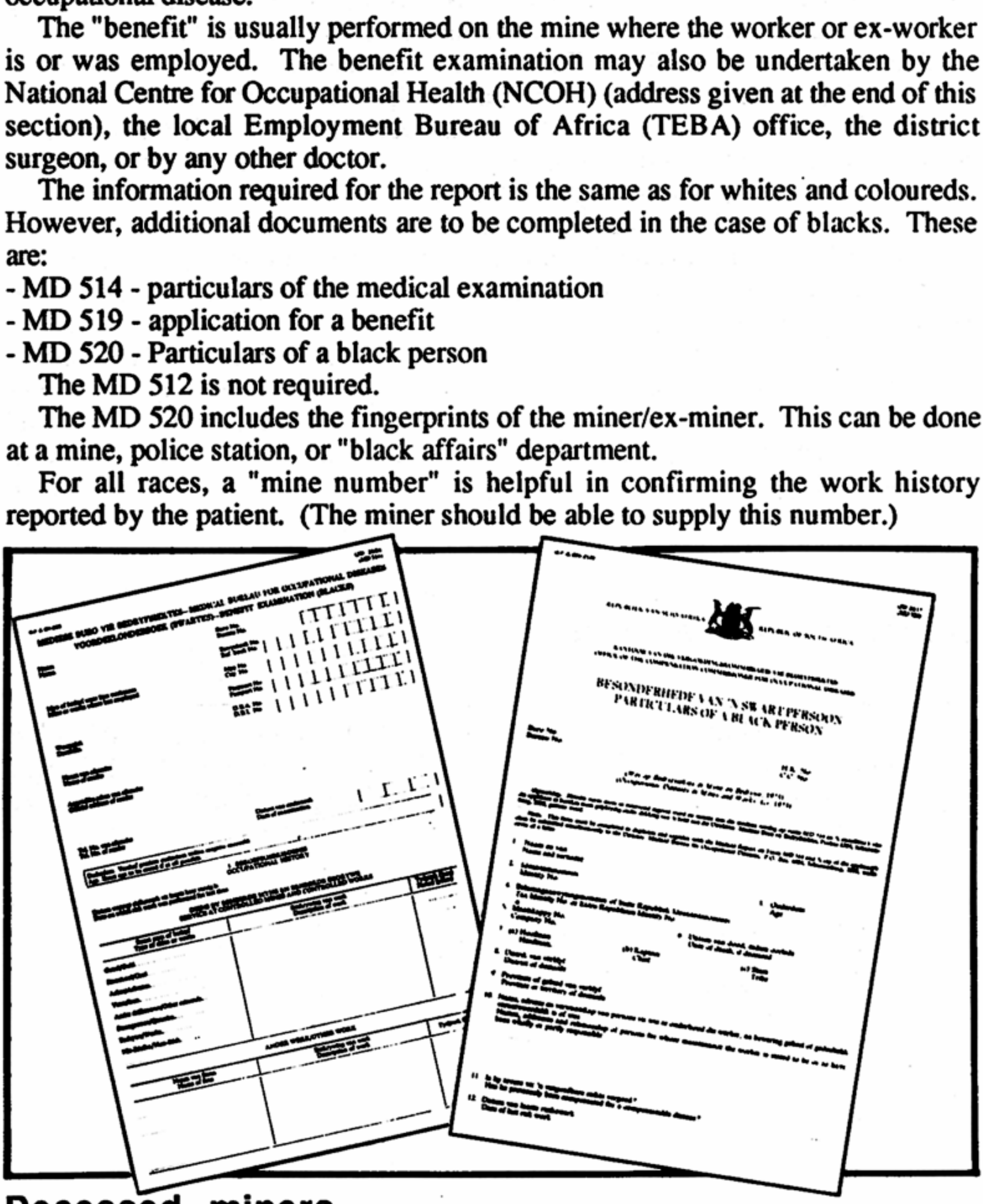
The information required for the report is the same as for whites and coloureds. However, additional documents are to be completed in the case of blacks. These are:

- MD 514 - particulars of the medical examination
- MD 519 - application for a benefit
- MD 520 - Particulars of a black person

The MD 512 is not required.

The MD 520 includes the fingerprints of the miner/ex-miner. This can be done at a mine, police station, or "black affairs" department.

For all races, a "mine number" is helpful in confirming the work history reported by the patient. (The miner should be able to supply this number.)



Deceased miners

If a compensatable disease is diagnosed at a post mortem examination, the dependants of the deceased miner are entitled to an award. For whites and coloureds, the amount awarded is the same had the diagnosis been made in life. For black deceased miners, the amount is less than that awarded in life (see end of the section for exact amounts).

The ODM&WA states that the attending medical practitioner is responsible for ensuring that a post mortem examination is performed on deceased miners; the widow or relative must consent to the examination. The Act states:

"A medical practitioner in the Republic who attended a deceased person at the time of or immediately before his death, or has opened the body of such a person, and who knows or has reason to believe that such a person worked at a mine or works, shall remove the cardio-respiratory organs and any other prescribed organs or parts of the body and shall send such organs or parts of the body to the prescribed place or, if no place has been prescribed, to the bureau or to any other place specified by the director, in accordance with the prescribed procedure or, if no procedure has been prescribed, in accordance with such instructions as may be issued by the director."

If a white or coloured miner dies within 100 km of the centre of Johannesburg, the cardio-respiratory organs need not be removed, as the whole body can be sent to the prescribed place. The prescribed place for both cardio-respiratory organs and complete bodies is usually the NCOH in Johannesburg. The method of removing and transporting the deceased miner's organs (or body) can be requested from the director of the MBOD.

Compensation awards

Whites and coloureds

These miners are certified as either 1st degree or 2nd degree by the Certification Committee depending on the degree of impairment. The degree of impairment may be increased from 1st degree to 2nd degree at subsequent benefit examinations or at a post mortem examination.

Amounts

	whites	coloureds
TB	R 8 386	R 4 474
1st degree	R20 126	R10 734
2nd degree	R33 207	R17 711

Blacks

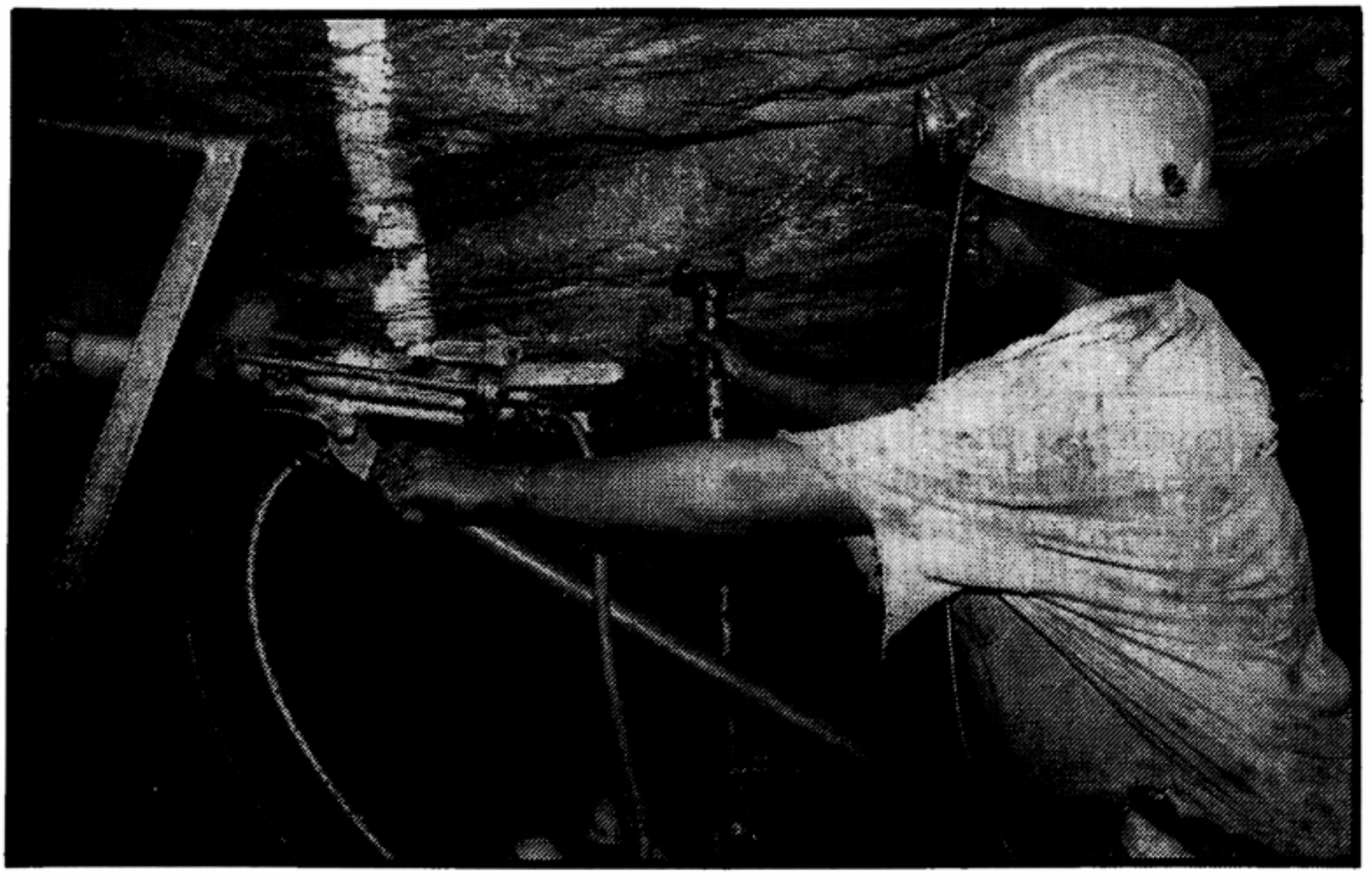
Impairment is not assessed and diagnosis at a post mortem examination reduces the award.

TB	R1 119 (half if diagnosed at P.M)
Certification	R2 052 (two-thirds if diagnosed at P.M.)
Certification plus TB	R2 462

A black miner who develops a mesothelioma is therefore entitled to R2 052 to compensate him for pain and suffering, loss of earnings, medical expenses, and to support his family after his death.

Summary of duties of medical practitioners

- Medical practitioners are responsible for ensuring that a miner or ex-miner receives a benefit examination. The medical practitioner can refer his/her patient to an appropriate place for a benefit examination or perform the examination him/herself.
- Medical practitioners are responsible for ensuring that a post mortem examination is performed on deceased ex-miners.
- Medical practitioners who submit cases for compensation may attend or be asked to attend the meeting of the Medical Certification Committee.



Doctors should ensure that miners and ex-miners receive benefit examinations

Addresses

National Centre of Occupational Health (NCOH)
P.O. Box 4788
Johannesburg
2000
Tel. 724-1844

Medical Bureau for Occupational Diseases (MBOD)
P.O. Box 4584
Johannesburg
2000
Tel. 724-1451

Sub-Bureaux

Dundee
The Director
P. Bag 236
Dundee
3000

Beaconfield Street
Dundee

Witbank
The Director
P.O. Box 145
Witbank
1035

Witbank Sentrum 311
President Street
Witbank
Tel: (0351) 64260

Rustenburg
The Director
P.O. Box 1339
Rustenburg
0300

Drosdy Building
Cr Boom and Kroep Streets
Rustenburg
Tel: (01421) 24827

Klerksdorp
The Director
P.O. Box 679
Klerksdorp
2570

PC Pelser Building
Cr Anderson and Voortrekker Streets
Klerksdorp
Tel: (018) 23361

Kuruman
The Director
P.O. Box 106
Kuruman
8460

Government Building
Voortrekker Road
Kuruman
Tel: (01471) 21156

Welkom
The Director
P. Bag 6
Welkom
9460

West Block
New State Building
Grotiussingel
Welkom
Tel: (0171) 27697

Belville
The Director
P.O. Box 572
Bellville
7530
Tel: 974754/5/6

PROBLEMS OF THE COMPENSATION SYSTEM - SOME CASE HISTORIES

In the following section, CRITICAL HEALTH looks at some case histories which illustrate various problems which are experienced in claiming compensation. Some of these problems are related to the Workmen's Compensation Act (WCA) itself, while others are a result of administration and implementation of the Act.

The WCA tends to favour employers

Petrus Nkabinde was 18 years of age when he was injured on 12 September 1983. All fingers of the left hand were amputated. On the date of the accident he was told by the supervisor that he had to help another worker to clean a glueing machine. Within 20 minutes of doing the job he was injured.

- It was the first time he had worked on the machine
- He had not been told of the dangers of the machine and had not had safety training.
- They were cleaning the machine while it was operating, ie it hadn't been switched off.

The employer reported the accident, but stated that the worker was fiddling with someone else's job when he got injured. The supervisor also denied the instructions he had given to the worker. The WCA decided on the information that the worker would not be paid. It was at this point that the worker came to the IAS.

Compensation payments are often delayed

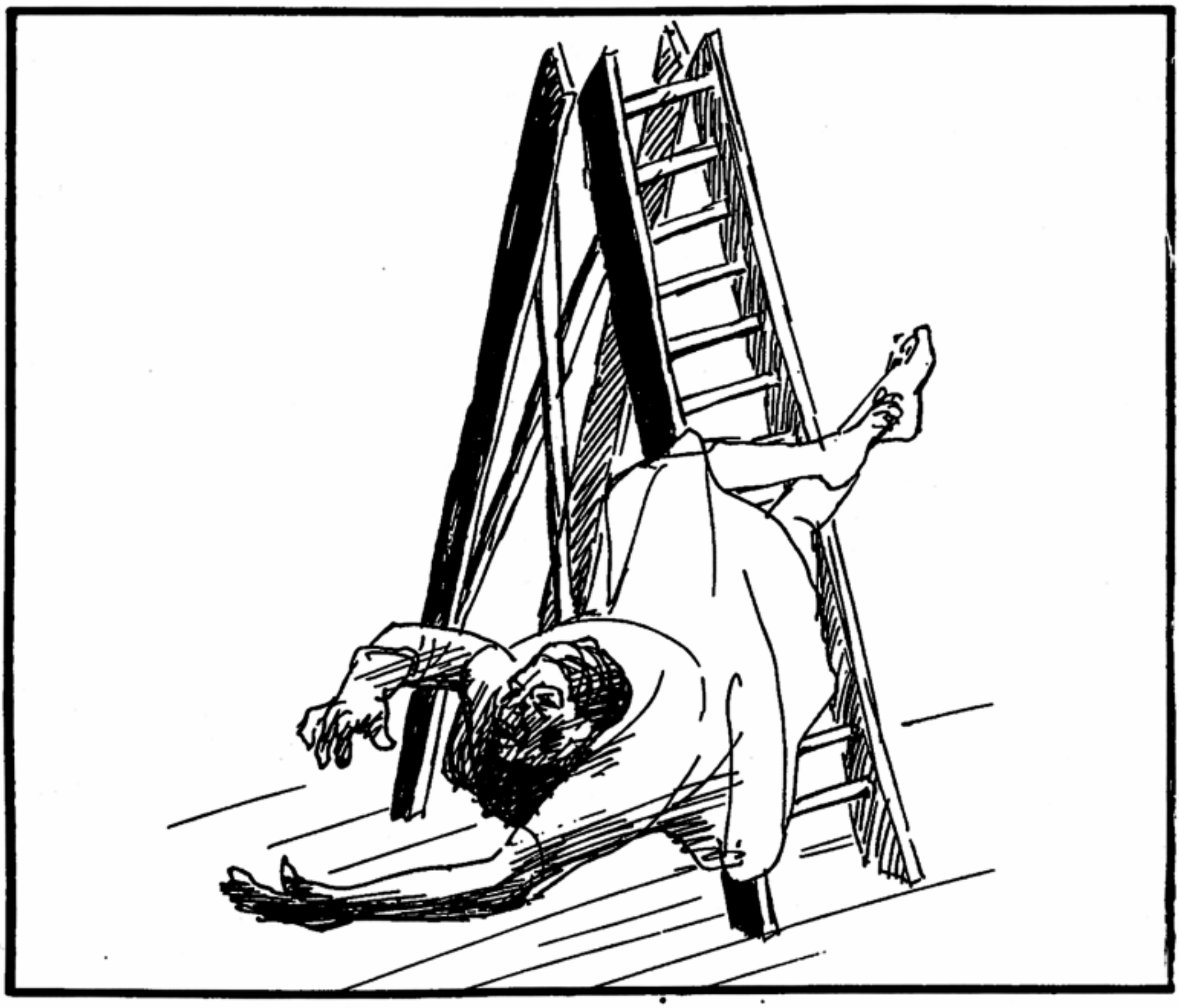
An underground mining accident left Sydney a paraplegic. He spent one year in hospital and during that entire period he did not receive any money. His

compensation (R1 000) came through after he had been discharged from hospital. Fortunately for Sydney, his brother, also a miner, kept the family going by sending them money every now and then.

A survey of 60 Industrial Aid Society (IAS) files in 1984, showed that, on average, the first temporary disability (TD) payments were made four months after the accidents.

Delays may be due to employers failing to fill in all the WCA forms

Marjorie Malotane was employed in a hardware shop. In 1983, she was standing on a ladder cleaning shelves. The ladder broke because the floor was slippery, and she fell. She broke her leg and her arm. She was 59 years old. She came to the IAS office in May 1984, a year after the accident. At that stage she had received R33 from the employer. The employer had failed to complete one form. The IAS submitted the last form and in July she received R260. She will still receive permanent disability. (PD).



Marjorie Malotane fell, breaking her leg and her arm

Employers sometimes fail to report accidents.

James Kgaphola was employed by Zinc Corporation and died on the 31 October 1977, 24 hours after he had been told to do a certain job.

Acid had been poured into a tank and when this was poured out, Mr Kgaphola was told by the foreman to clean the tank with water. When he came out of the tank he was dizzy, and complained of a headache. He could not stand on his feet. The foreman insisted that he continue cleaning the tank but the worker refused. He was coughing at that stage.

The foreman then instructed another worker to do the job. The worker did it for about 20 minutes and came out coughing and refused to continue with the job.

On 31 October he woke up to find that Mr Kgaphola was not in his bed. He was told by the other workers that Mr Khaphola had been taken to the first aid station. Later that morning this worker was informed by the foreman that Mr Kgaphola had died.

The IAS and the Legal Resources Centre took up the matter trying to follow the causes of death.

The district surgeon said that the worker had died from broncho- pneumonia (natural causes). No full inquiry was conducted. The employer did not report the accident and the family was not compensated.

Compensation payments are very small

Compensation payments are calculated as a percentage of the wage that the worker earned at the time of the accident or disease. This ruling therefore discriminates against workers with low wages, ie. mostly black unskilled workers.

Tlali is a miner who experienced a serious accident in 1970. As a result he is a paraplegic. At the time of the accident he was earning R65 a month. He thus received a lump sum compensation of R1 000. Tlali had this to say ...

"My biggest problem is how my wife is going to go on living with the children, as they are still very young. Who is going to help them go to school? How are they going to be clothed? How are they going to be fed?"

Lefa suffered a serious mining accident in 1983. He is now a quadriplegic. At the time of the accident he was earning R400 a month. He receives a compensation payment of R300 a month.

Doctors may misassess workers

Phillip Dlungwane was employed by Mather and Platt as an assistant fitter, and was injured on 9 January 1982. On the date of the accident, he was standing on scaffolding, helping to fit pipes. One of the pipes connecting the scaffolding broke and the scaffolding fell. Mr Dlungwane fell and suffered a fracture on the right ankle.

He was declared fit to resume duties on the 14 May 1982. He was assessed as having no permanent disability, but the doctor suggested he should do light work. He was stopped from climbing the scaffolding again and was instructed to do ground work. He was transferred to the main factory at Elandsfontein where he was posted to work at the storeroom.

He was told to start working in the workshop painting pipes. These are suspended in the air. Mr Dlungwane protested against this but he did the job. He started complaining as his foot began to swell. A week later he was dismissed allegedly for laziness. Company officials knew that he was meant to only do light work.

On getting to the IAS, his injury was assessed and he was taken to another doctor for a second opinion. The doctor found that he had suffered permanent disability as his ankle could not be moved beyond certain angles.

The Commissioner was requested to re-open the file. He has agreed to do so. The doctor who saw the worker initially had misassessed the accident.

Mr Dlungwane suffered a fracture on the right ankle

PROVISIONS FOR ADDITIONAL COMPENSATION

Under the Workmen's Compensation Act (WCA), workers who lose earnings as a result of injury, disease, or disablement are entitled to workmen's compensation (as per the tariff). But these workers cannot sue their employers for damages arising out of an accident at work.

This restriction does not apply to workers not covered by the WCA (for example domestic workers) or people earning above the statutory minimum (R1 800 a month).

What constitutes "negligence"?

Where a worker, covered by the WCA, is able to show that the accident was due to the negligence of the employer, or a member of the employer staff, (generally above a certain level, eg from supervisor up), he/she may get additional compensation, which is paid from the Workmen's Compensation Fund.

This negligence may take the form of either negligent conduct by somebody, or the negligent failure to remedy a patent defect, for instance, failing to adequately guard a machine.

On these grounds, additional compensation can also be claimed on behalf of the dependants of a worker who has been killed in an accident.

Sueing for damages

While a worker is unable to sue his/her employer in a civil case, he/she may be able to recover damages for injuries from the manufacturer of equipment used in the workplace. This can only be done if it can be shown that negligence on the part of the manufacturer of the equipment caused the person's injury.

A worker is also entitled to recover damages from a fellow worker who has

negligently caused his/her injuries.

The additional compensation is for the full financial loss (i.e. loss of earnings, medical expenses etc) suffered. Where a worker is able to sue for damages, he/she can sue for non-financial matters such as pain, suffering and shock.

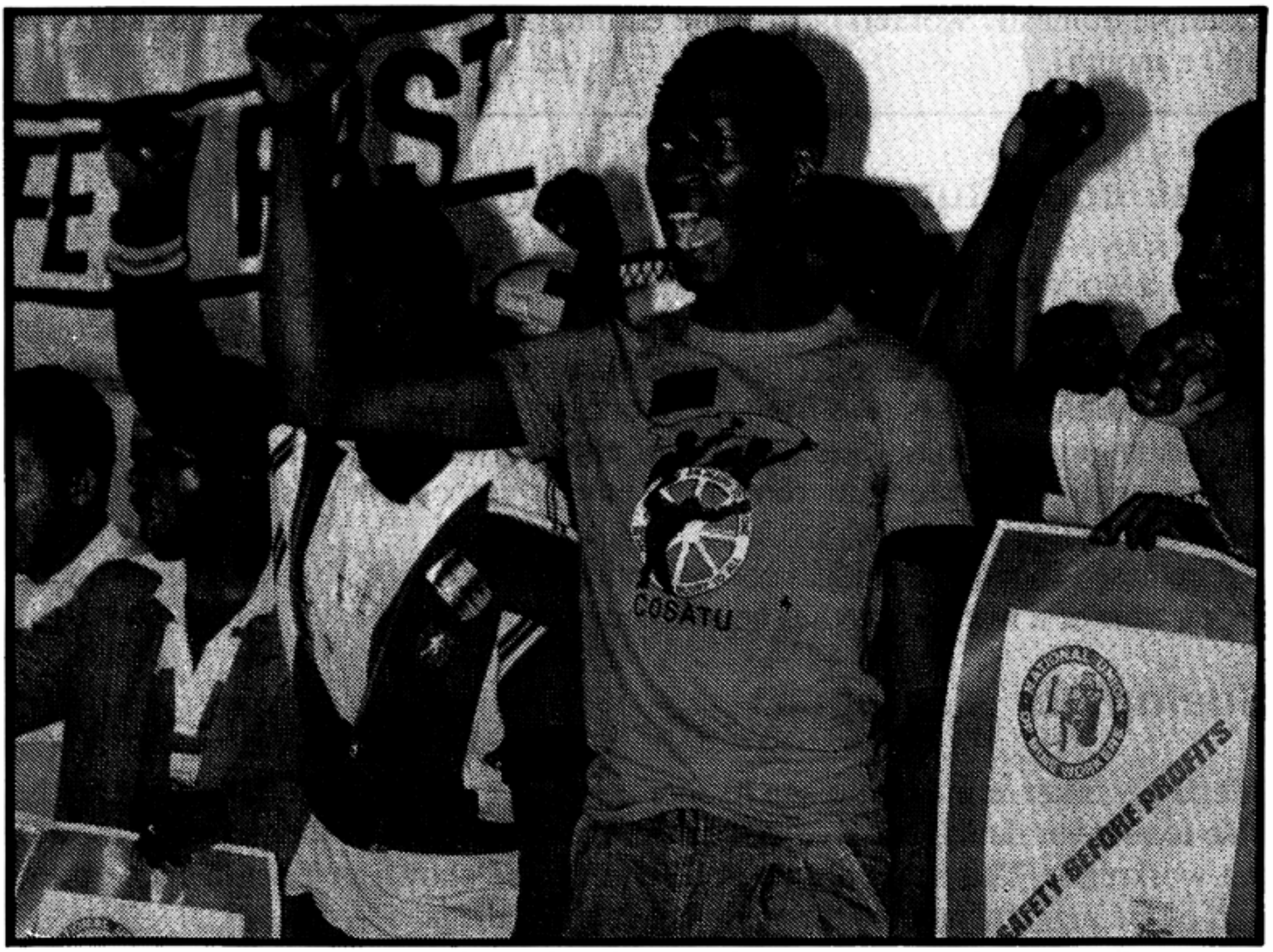
How to claim additional compensation

A claim for additional compensation should be made within six months of the accident, if possible. However, the Workmen's Compensation Commissioner may accept a claim made within two years of the accident.

In practice, it will seldom be possible to lodge an additional compensation claim within six months of the accident. This is because workers and their legal advisors need to collect evidence to show that it was negligence.

Provisions for claiming increased compensation are the most under-used sections of the Workmen's Compensation Act. This is because the average worker is not usually aware of his/her rights under the law. Employers will not lodge a claim for additional compensation even if they are aware that negligence may be proved. Similarly, the Workmen's Compensation Commissioner will not initiate a claim of this nature, unless it is lodged by the workers who have suffered disability, loss or damages, or by the family of a deceased worker.

The onus is on organisations such as trade unions, to claim increased compensation on behalf of the workers.



Trade unions can claim increased compensation on behalf their members

The following are examples of successful claims for additional compensation.

Hlobane

In September 1983, 68 miners were killed in a methane gas explosion at the Hlobane Colliery. The accident occured on a Monday morning.

During the previous weekend there had been a build-up of methane due to a failure in the ventilation system, which was not remedied.

At the inquest-inquiry, the magistrate held that there was criminal negligence only on the part of a white miner who had been killed in the accident. Further, a wide range of breaches of the regulations under the Mines and Works Act were found to have occurred.

Afterwards, a claim for additional compensation was lodged by the National Union of Mineworkers (NUM). In this claim, it was argued that systematic negligence by a wide range of mine officials and employees had caused the accident. This argument was accepted by the Workmen's Compensation Commissioner who held that the negligence of a shift boss, mine captain and two engineers was sufficient to support a claim for additional compensation.

Rietspruit

In January 1984, an accident occurred at Rietspruit Mine, where miners were working at night to repair a faulty cable.

They were working on a pylon that supported the cable. One of the workers pointed out to the foreman who was supervising the tasks, that the pylon appeared to be dangerous and would not be able to support people working on top of it.

The foreman nevertheless ordered the workers onto the pylon, which then fell over. Two workers were killed and one injured.

It emerged at the inquiry that the previous week, a supervisor at the mine had observed the pylon involved in the accident had a crack in it. However, he had failed to take any step to remedy this.

The Mines Inspectorate found that the conduct of both these officials was negligent. The company did not oppose the claim for additional compensation lodged by the union on behalf of the widows of the deceased and the injured miners.

The outcome of the claims

In both the Hlobane and Rietspruit cases, the amount of additional compensation is still to be settled.

NUM and Rand Mutual (The Mines Assurer) are currently trying to establish the formulae to be used in calculating additional compensation.

The effect should be that a person awarded additional compensation should be

placed in the same position as if he/she had won a successful damages claim in the civil courts.

Conclusion

These two claims, taken up by NUM on behalf of its members, are the first successful claims in the mining industry for over 20 years - during which time at least 15 000 people have died in mining accidents.

The clause for additional compensation has existed for at least 50 years, yet mineworkers have been largely ignorant of their rights under the law.

This pattern is set to change.

APPLICATION FOR ADDITIONAL COMPENSATION UNDER SECTION 43 OF THE ACT

N.B.—If the space on this form is inadequate for the reply to any question, the words "statement attached" may be inserted under the relative item, and a statement containing the required particulars should be attached. Every such statement should bear sufficient details to identify it with the application and with the item to which it refers.

PARTICULARS OF APPLICANT.

(1) Name of applicant _____

_____

(2) Address of applicant _____

_____ Postal code _____

(3) (To be completed only if the accident resulted in death).
State the relationship of the applicant to the deceased workman _____

PARTICULARS OF ACCIDENT.

(4) Name of workman _____

(5) Name of employer _____

(6) Date of accident _____

(7) Place of accident _____

PARTICULARS OF COMPENSATION AWARDED.

(8) Has any compensation already been awarded in respect of —

(a) Permanent disablement? _____; or

(b) Death? _____

If so, give details _____

_____

GROUNDS OF APPLICATION.
Negligence.—Section 43(1) (a).

(9) Is it alleged that the accident was due to the negligence of a person referred to in Section 43(1) (a)? (Yes or No) _____

(10) If so, furnish the following particulars in respect of the person(s) whose neligence is alleged to have caused the accident:—

NAME	Capacity in which employed	State whether this person falls under subparagraph (i), (ii), (iii), (iv) or (v) of Section 43(1)(a) of the Act

(11) Give details of the alleged negligence of the above person(s).

NAME	DETAILS.

Patent Defect.—Section 43(1) (b).

(12) Is it alleged that the accident was due to a patent defect as set out in Section 43(1) (b)?
(Yes or No) _____

(13) If so —
Did the patent defect exist in the *premises*, *works*, *plant*, *material* or *machinery* used in the business of the employer? (State which and give details) _____

_____

_____

S. Dumont & Viljoen

ADVICE OFFICES

The following organisations offer advice to workers on problems related to Workmen's Compensation:

Transvaal

Industrial Aid Society
Camperdown Building, 3rd Floor
99 Polly Street
Johannesburg
2000
Tel. (011) 23-8229 / 23-8479

Natal

Legal Aid Clinic
University of Natal
King George V Avenue
Durban
4001
Tel. (031) 81-6244

Eastern Cape

SACHED Advice and Legal Aid Service
ABC Building, Second Building,
Room 201
19 Terminus
East London
5201
Tel. (0431) 2-7487

Western Cape

General Workers' Union Advice Service
Benbow Building, 1st Floor
3 Beverley Street
Athlone
7764
Tel. (021) 638-2592

Ray Alexander Workers' Clinic
Ray Alexander Union Centre
Klein Drakenstein Road
Huguenot
Paarl
7646
Tel. (02211) 2-6836

WORKMEN'S COMPENSATION - A COMPARATIVE ANALYSIS

In the article "Workmen's Compensation - Who Benefits?", attention was drawn to the inadequacies in the provisions of the Workmen's Compensation Act (WCA).

The following article looks at the workers' compensation system in Britain in an attempt to arrive at suggestions for alternatives in South Africa. Furthermore, this article attempts to show how the WCA weights the capital-labour relation in favour of capital, by not providing for worker representation structures in the implementation of the Act.

THE COMPENSATION ACT PER SE

The weaknesses of the South African Workmen's Compensation Act have been discussed in the first two articles of this issue of CRITICAL HEALTH. They are re-iterated here in order to compare them to the British compensation system, with a view to formulating alternatives.

Calculation of compensation amounts

In South Africa, calculations for compensation awards are based on percentage of wage earned at the time of the accident or disease. This disadvantages lower-paid workers who are mostly black. In the case of industrial diseases, the Act overtly discriminates against black miners.

The percentage-of-wage formula seems to imply the assumption that workers' needs decrease when injured or diseased. But, in fact, the opposite is mostly true.

Injured or diseased workers in Britain receive flat rate benefits: Everyone

receives the same benefit for a particular injury. In this ruling, there is no discrimination regarding sex or colour. The flat rate benefit is assessed according to fixed percentage disability formulae.

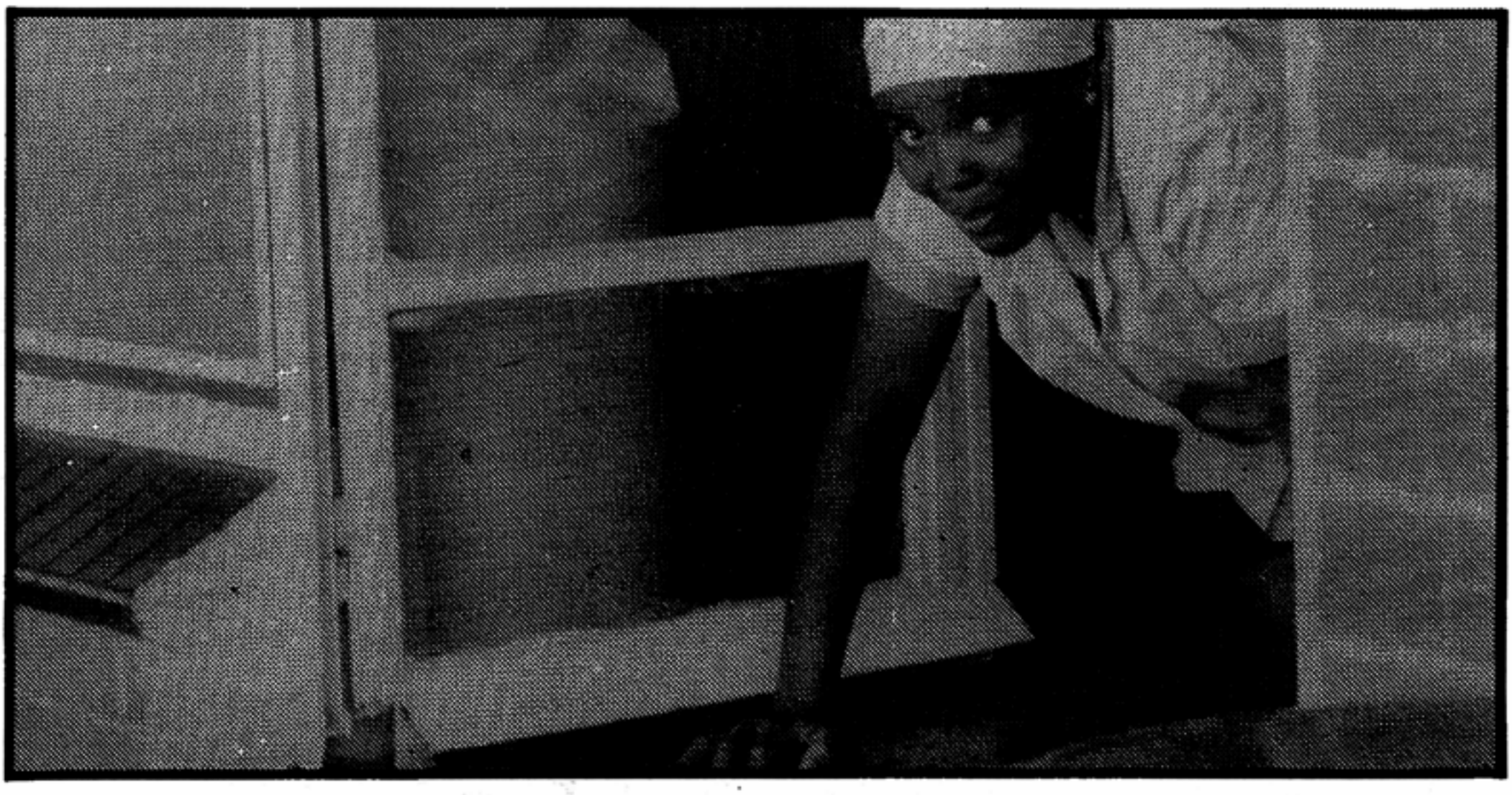
However, compensation for any injury, disease and disablement is increased in accordance with the number of dependent children (in contrast to South Africa, where dependent children are only taken into account in the case of death benefits, with the number of dependent children being limited to three). In addition, there is an earnings-related supplement.

Benefits in themselves, however, are not related to wages. This removes one aspect of discrimination against low-paid workers. Benefit rates are usually reviewed and increased annually to take account of the rising cost of living.

Coverage

The South African Workmen's Compensation Act is characterised by its exclusions rather than inclusions. The Act does not cover state employees (who receive compensation from other sources), outworkers, casual workers, employees not employed for the purposes of the employer's business, and domestic workers.

The British National Insurance Act of 1946, in contrast, is characterised by its inclusions rather than exclusions. The Act covers all workers, except for self-employed people.



Domestic workers are not covered by the WCA

Scheduled diseases

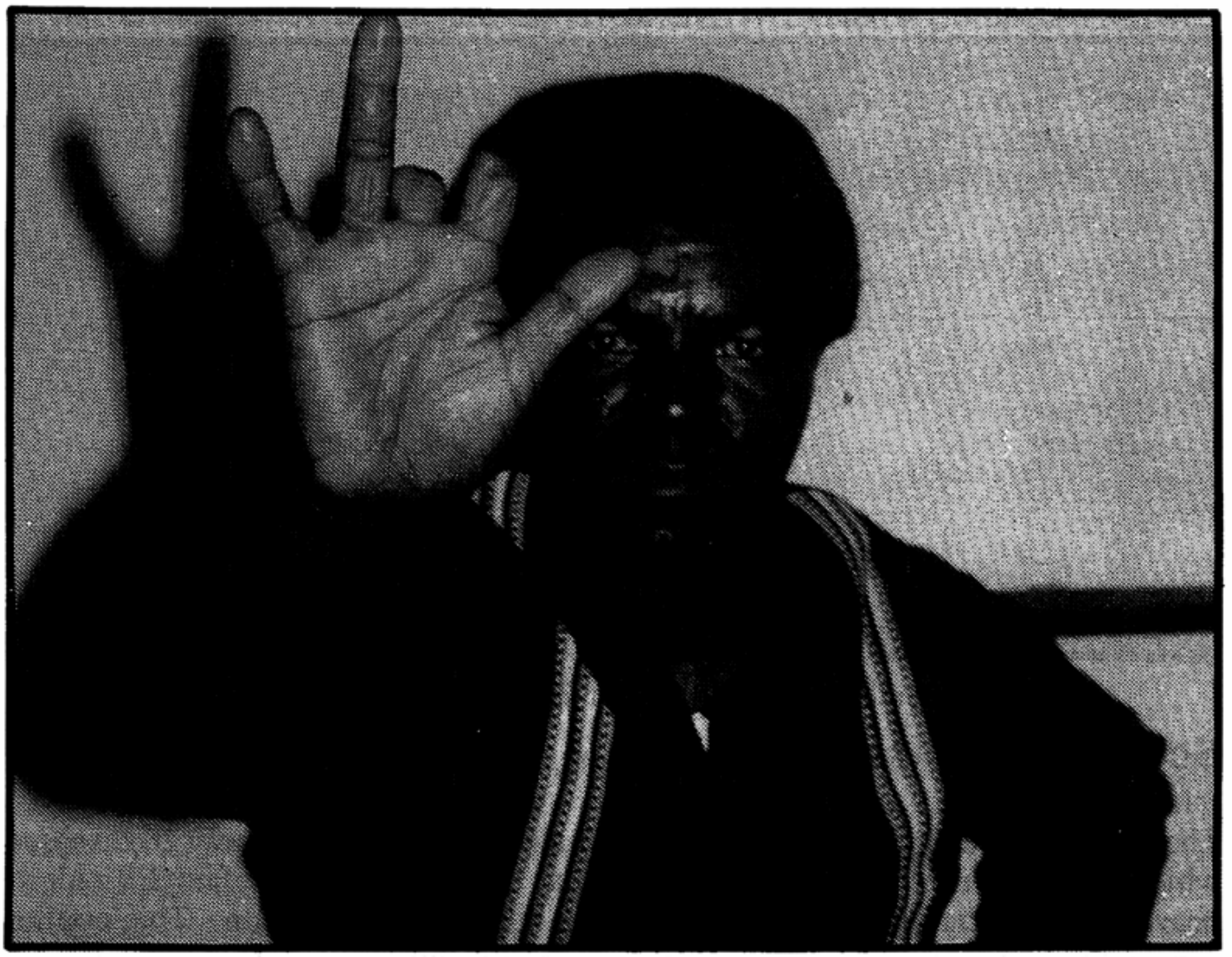
The Second Schedule of the Workmen's Compensation Act lists only 16 diseases which are recognised to arise out of particular occupations. It is often difficult to prove that a particular disease arose from a particular occupation. This applies especially in the case of lung diseases, which develop over a long period, before the first symptoms manifest themselves.

By 1983, the British National Insurance Act listed 49 diseases recognised to arise out of certain occupations. Even though this vast number of diseases compares favourably with the small number of diseases listed in the South African Act, the list is still criticised for not being sufficiently comprehensive. Another weakness of the British Act with regard to industrial disease, is the fact that the onus is on the worker to prove that a particular employment in his/her work history gave rise to the disease.

Calculation of disablement

The First Schedule of the South African Workmen's Compensation Act provides a list of percentage disability for certain injuries and loss of limbs, which is then used in the formulae to calculate the amounts of compensation. These percentages are fixed according to an estimated anatomical loss, without taking into account loss of function, or re-employability.

This criticism applies to the British Act as well (except that compensation awards for the same injuries do not vary with percentage of wages, as in the case of the South African system). In Britain, an office worker who sits all day at a desk will receive the same benefit for a disabled foot as, say, a postman who is forced by the disability to give up his job.



Loss of function and re-employability are not taken into account

Job protection

In South Africa, accidents with resulting injuries often mean dismissal for the worker concerned. There are no provisions in the South African compensation laws to ensure that the worker retains his/her job, or is posted at another job in the same enterprise without reduced pay.

The British Act does not make such a provision either; but it does provide for special hardship allowances, and for unemployability allowances, if the worker concerned is not covered by other pensions.

Common law rights

For South African workers, the introduction of a state- administered compensation scheme in 1941 meant the loss of common law rights. Employees cannot, under any circumstances, institute civil cases against their employers. Thus, employers cannot be held responsible, in their personal capacity, for accidents or diseases, not even in cases where negligence is involved. In successful additional compensation claims, compensation is paid out from the Workmen's Compensation Fund.

The British Act, in contrast, grants workers common law rights in cases of employer negligence. But claiming damages is difficult even under this system, as "contributory negligence" is commonly invoked by employers in their defence.

The "misconduct" clause

Under the South African system, no compensation is paid "...if the accident is attributable to the serious and wilful misconduct of the workman ... unless the accident results in serious disablement, or the worker dies in consequence thereof" (Act no. 30 of 1941, ss. 27 (b)).

"Serious and wilful misconduct" is a vague concept which is open to abuse to the disadvantage of the worker concerned. This clause does not take account of cases where workers have to disregard safety precautions because of bonus schemes and other methods to increase production output. In such cases, it is again the worker, rather than the employer, who is made to pay.

The 1946 National Insurance Act in Britain, in contrast, has dropped the clause relating to non-compensation for injuries arising out of employees' "serious and wilful misconduct". Furthermore, the British compensation system does make provision for "misconduct" based on employers' instructions.

THE ADMINISTRATION OF THE ACT

Bureaucratic inefficiency

The compensation system in South Africa shows very little regard for the effects of its implementation on individual workers' lives. Workers face long delays in

obtaining compensation. This is partly due to bureaucratic inefficiency of the Workmen's Compensation Commissioner's offices, which, in turn, results from staff shortages and inexperienced administrative employees. The Workmen's Compensation legislation which the state has taken on, is not matched by an adequate infrastructure to administer that legislation.

The same is true of the British compensation system within which, likewise, workers face long delays in obtaining compensation at a time when they most need it.

Workers' dependency on employers

In South Africa, it is usually the employer who reports accidents and sends in all the relevant forms. It is also the employer who receives the compensation money to be paid to the worker. Thus, the worker is dependent on the employer for payment of compensation.

This dependency on the good will of the employer is exacerbated by the fact that workers often do not know about their rights. The 1941 Workmen's Compensation Act states that employers are to pay for medical treatment for injured workers by doctors of the workers' own choice, and to provide free transport to hospital. Yet many workers are only allowed to go for treatment after they have finished their work for the day, and then at their own expense.

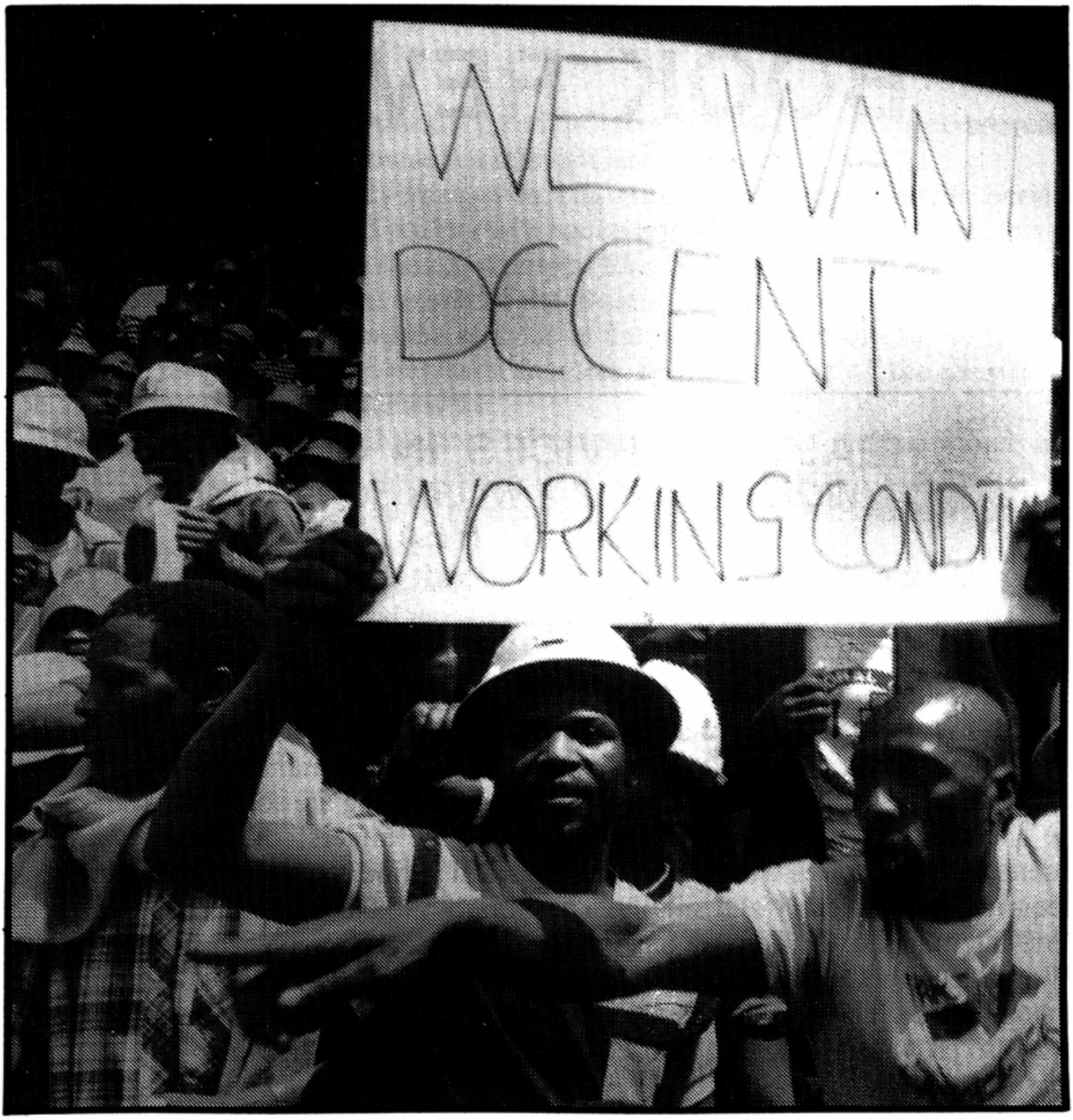
Worker representation on the Compensation Commission

In South Africa, the Workmen's Compensation Commissioner appoints assessors in order to assist in the administration of the Act. These assessors are meant to represent both workers and employers equally. The Act furthermore stipulates that "...the Minister shall consult trade unions or employers' organisations which, in his opinion, are principally concerned" (Act no 30 of 1941, ss. 13(4)), before appointing assessors.

In present-day South Africa, there are several unregistered unions which represent a large number of workers; these are not consulted. Even though quite a number of progressive unions have registered, there is still a tendency for the Commission to consult only "established unions which had existed for approximately 15 years". As a result, black workers on the whole are not represented.

A researcher comments on this exclusion: "A situation in which nearly two-thirds of the economically active population has no representation on a board which is meant to serve workers' interests, must surely bring into question whose interests are in reality being met." (D. Rosengarten)

This is not what organised labour had envisaged when the state- run compensation scheme was introduced in 1941. To them, the aim of a state-administered fund was to remove worker insurance from the sphere of private insurance companies, and to institute a board with equal representation of capital and labour.



A large number of workers have no representation on the Commission

Access to the Supreme Court

Related to the non-representivity of the board is the fact that compensation claims hardly ever get to Supreme Court level. Virtually all disputes, except in rare instances where assessors are called upon, are decided by one person - the Compensation Commissioner.

Information in this article is from Dan Rosengarten: "Workers' Compensation - South Africa, A Case Study"; BA Hons. Dissertation (Development Studies), University of the Witwaterstand, Johannesburg, 1983.

BOOK REVIEW

HEALTH SERVICES IN SOCIETY, *(WORKBOOK 2 - WORKBOOKS IN COMMUNITY HEALTH)*

by M Hammond and J Gear, Oxford University Press, 1986

This workbook is the second in a series of three Workbooks In Community Health (Workbook 1: Measuring Community Health; Workbook 2: Promoting Healthy Environments). It is an excellent teaching manual and should be mandatory reading for all health workers. The following are some of its strengths.

The South African health system can only be understood from a political-economic perspective within a certain historical period. The workbook fulfils this requirement admirably and simply. The Brazzaville Declaration - adopted at the first International Conference on Apartheid and Health, convened in 1981 by the World Health Organisation - had concluded that apartheid and health are incompatible. The workbooks scientifically and graphically illustrate this point, and also provide a strategic approach in achieving adequate health.

Style and Format

Secondly, the style and format of the workbook - while difficult to adjust to initially - facilitate a critical and dynamic understanding of health in South Africa. The authors present the scientific evidence, explicitly apply their value system (ie the adequate provision of health by the State for all its people within a democratic society) and then invite the reader to critically participate.

This approach is in stark contrast to the didactic approach based on the narrow biological model of health and disease, buttressed by the "hidden curriculum", which continues to reinforce and perpetuate the class, sexual and racial divisions of our society.

This approach has been strongly endorsed by the South African Association of Medical Education (SAAME) Congress of 1985 and for this reason, the workbooks should occupy a central position in the curriculum of all medical faculties.

The Strategic Approach: Towards a National Health Service

The workbook makes a significant contribution to developing a strategic approach in moving health workers towards a relevant health system.

The workbook repeatedly stresses that an alternative National Health Service (NHS) in the post-apartheid society will not be a product of a few intellectuals or some high sounding resolutions or charters. This NHS will have to be developed organically from within the womb of the present apartheid society. The steps in this dynamic process involve the analysis of the present health and social system, assessing its positive and negative features in the context of the prevailing philosophical/ideological framework.

Next, the correlation and balance of various (class) forces are quantified and evaluated. The attitudes and (class) interests of the medical industry (drug companies etc), the politicians and doctors in relation to the health needs of the majority, are starkly contrasted.

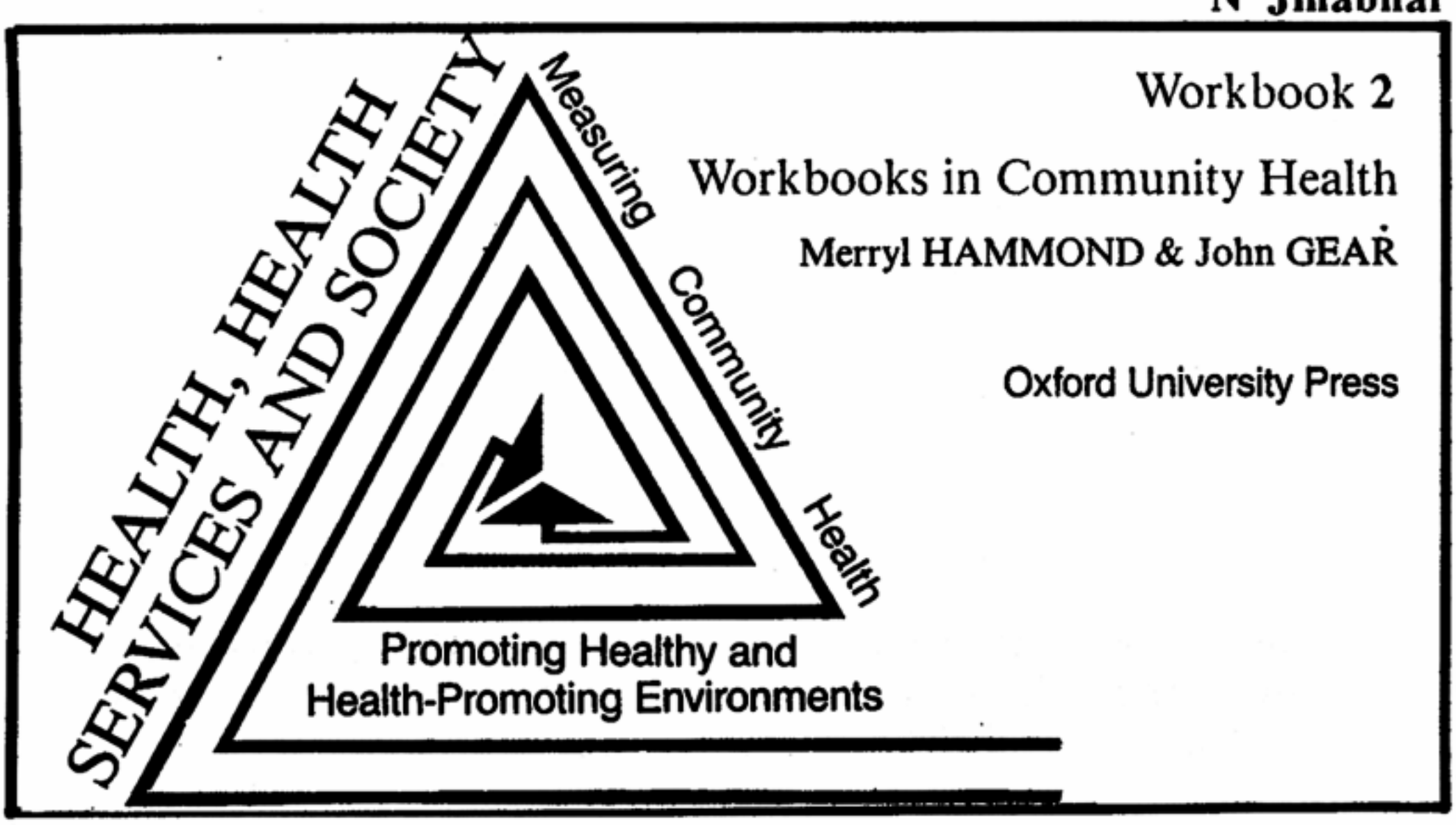
The health worker is then challenged to make ethical and professional choices and to participate in the broad movement towards a democratic NHS.

In summary, the workbook addresses a number of key tasks in the health sector during this transitional period, viz:

- analysis and exposure of the negative effects of apartheid or health
- identifying the obstacles towards health for all
- challenging health workers to redefine their roles and in alliance with other social forces to move towards a NHS within a democratic South Africa.

"It is our aim to stimulate such debate, to encourage health workers to think critically and creatively, and to generate a commitment among concerned South Africans to keep searching for solutions that will positively affect the health of the broad South African community."

N Jinabhai



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CRITICAL HEALTH aims to:

* **present a critique of health in South Africa**
* **provide ideas for the roles that health workers can play in promoting a healthy society**
* **show that good health is a basic right**
* **provide a forum for the discussion of health-related issues**
* **provide insight into the political nature of health**

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