

Chap. 888. AN ACT PROVIDING FOR THE PAYMENT OF WORKMEN'S COMPENSATION BENEFITS SIMULTANEOUSLY WITH THE FILING OF LAWSUITS AGAINST THE NEGLIGENT THIRD PARTIES WITHOUT THE NECESSITY OF ELECTION BY EMPLOYEES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 152 of the General Laws is hereby amended by striking out section 15, as amended by section 1A of chapter 487 of the acts of 1965, and inserting in place thereof the following section:—

Section 15. Where the injury for which compensation is payable was caused under circumstances creating a legal liability in some person other than the insured to pay damages in respect thereof, the employee shall be entitled, without election, to the compensation and other benefits provided under this chapter. Either the employee or insurer may proceed to enforce the liability of such person, but the insurer may not do so unless compensation has been claimed or paid under an agreement. The sum recovered shall be for the benefit of the insurer, unless such sum is greater than that paid by it to the employee, in which event the excess shall be retained by or paid to the employee. For the purposes of this section, "excess" shall mean the amount by which the total sum received in payment for the injury, exclusive of interest and costs, exceeds the compensation paid under this chapter. The party bringing the action shall be entitled to retain any costs recovered by him. Any interest received in such action shall be apportioned between the insurer and the employee in proportion to the amounts received by them respectively, exclusive of interest and costs. The expense of any attorney's fees shall be divided between the insurer and the employee in proportion to the amounts received by them respectively under this section. Except in the case of a settlement by agreement by the parties to, and during a trial of, such an action at law, no settlement by agreement shall be made with such other person without the approval of the industrial accident board after an opportunity has been afforded both the insurer and the employee to be heard on the merits of the settlement and on the amount, if any, to which the insurer is entitled out of such settlement by way of reimbursement, which amount shall be determined by said board at the time of such approval. In the case of a settlement by agreement by the parties to and during a trial of such an action at law, the justice presiding at the trial shall have and exercise, relative to the approval of such settlement by agreement and to the protection of the rights and interests of the employee, all the powers hereinbefore granted to the industrial accident board.

SECTION 2. This act shall apply to causes of actions arising on and after its effective date.

Approved October 14, 1971.