

A worker who was employed to work a hauler at a sawmill was travelling home after his day's work was finished on a truck of timber running on a tramway between the bush and the sawmill. He was travelling on it for his own convenience, and his employer was not under any obligation to convey him to or from his work. A bridge over which he was travelling collapsed and he was killed. It was held that the accident did not arise out of and in the course of his employment, and the case was dismissed. (*Labour Journal*, April, 1913, p. 263.)

A worker employed in a livery-stable slept in a room which was reached by a stair from the stable. During the night he woke up, hearing a knocking noise in the stable. He got up to ascertain the cause of the noise and fell from the landing on to the floor of the stable, as a result of which he was permanently incapacitated from work. The Court decided that in going to ascertain the cause of the noise the plaintiff was answering a call of duty, and that therefore the accident was one arising out of and in the course of his employment, and he was entitled to compensation. (*Labour Journal*, April, 1913, p. 265.)

The widow of a contractor's foreman claimed compensation on account of the death of her husband, who had been knocked down and killed by a passing train while going on his employer's business. It was held that the accident did not arise out of the deceased's employment, there being nothing in the evidence to suggest that in the performance of his duties he had to cross the railway-line more frequently than other people, or was exposed in this respect to anything beyond the ordinary risk. (NOTE.—It would appear from this judgment, and from the other decisions quoted in the judgment, that compensation is not payable merely where a worker meets with an accident while in his employment (*i.e.*, "in the course of his employment"—section 3 (1)), but the accident must be due to some risk which is incidental to the employment (*i.e.*, "arising out of his employment"—section 3 (1)). (*Labour Journal*, February, 1913, p. 111.)

A miner working in a coal-mine went from his working-place to another place in the mine, and whilst there was injured by a fall of coal. He went there for a purpose of his own, and contrary to the regulations under the Coal-mines Act. The Court held that in doing so he lost for the time being the protection of the Act, and his claim for compensation was dismissed. (Vol. xi, p. 34.)

A motorman was killed whilst in charge of a motor-trolley in a tunnel. The employers raised the defence that the worker was killed through carrying the trolley-pole so that it was ahead of the motor instead of behind it, and this, being contrary to instructions, constituted "serious and wilful misconduct" within the meaning of section 15 of the Act. The object of the instructions, however, was to avoid damage to the employer's property, and not the safety of the workers. The Court awarded compensation, and in doing so laid down the rule that the question of what constituted serious and wilful misconduct was one to be decided according to the circumstances of each case, and that every violation by a worker of a rule in force in the factory or works need not be treated as amounting necessarily to serious and wilful misconduct. To constitute serious misconduct within the meaning of section 15 the misconduct must be not merely serious in its consequences, but serious in itself. (NOTE.—This accident occurred prior to the coming into force of the 1911 amendment, under section 9 of which it is provided that when an accident results in "death or serious and permanent disablement" compensation is payable whether it is due to the worker's serious and wilful misconduct or not.) (Vol. xi, p. 11.)

Another case was that of a worker who, prior to making his claim in the Arbitration Court, had received compensation for part of the period of incapacity and signed a discharge in full settlement of his claim. It was clear from the medical evidence that he was mentally defective, and could not have understood what he was doing when he signed the discharge. Further compensation was therefore awarded by the Court. It was also held in this case that payments made to the worker under circumstances that showed that the liability to pay compensation was admitted precluded the defendant from subsequently alleging that the accident did not arise out of the worker's employment. (Vol. xi, p. 20.)

An additional duty was given to officers of this Department by section 10 of the Workers' Compensation Act, 1911, which provides that agreements for settlement of the amount of compensation shall not be binding unless approved by a Magistrate or Inspector of Factories. During the past financial year seventy-two agreements were approved by Inspectors.

#### SCAFFOLDING INSPECTION ACT.

As the provisions of this Act are becoming better known the tendency to erect inferior scaffolding is decreasing. Constant vigilance, however, has in places to be exercised by our Inspectors, as unfortunately some employers continue to take undue risks by erecting scaffolding considered to be unsafe. The Wanganui officer mentions a case in point where he found work-