

WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)
Act 317 of 1969

418.331 Persons conclusively presumed to be wholly dependent for support upon deceased employee.

Sec. 331.

Except as otherwise provided in this section, a child under the age of 16 years, or 16 years or over if physically or mentally incapacitated from earning, is conclusively presumed to be wholly dependent for support upon the parent with whom he or she is living at the time of the death of that parent. In the event of the death of an employee who has at the time of death a living child by a former spouse or a child who has been deserted by the deceased employee under the age of 16 years, or over if physically or mentally incapacitated from earning, that child shall be conclusively presumed to be wholly dependent for support upon the deceased employee, even though not living with the deceased employee at the time of death. The death benefit shall be divided among all persons who are wholly dependent upon the deceased employee, in equal shares. The total sum due a surviving spouse and his or her own children shall be paid directly to the surviving spouse for his or her own use, and for the use and benefit of his or her own children. If during the time compensation payments continue, a worker's compensation magistrate finds that the surviving spouse is not properly caring for those children, the worker's compensation magistrate shall order the shares of the children to be thereafter paid to their guardian or legal representative for their use and benefit, instead of to their father or mother. In all cases the sums due to the children by the former spouse of the deceased employee shall be paid to their guardians or legal representatives for the use and benefit of those children. In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the facts at the time of the injury. If a deceased employee leaves a person wholly dependent upon him or her for support, that person shall be entitled to the whole death benefit and persons partially dependent, if any, shall receive no part thereof, while the person wholly dependent is living. All persons wholly dependent upon a deceased employee, whether by conclusive presumption or as a matter of fact, shall be entitled to share equally in the death benefit in accordance with the provisions of this section. If there is no one wholly dependent or if the death of all persons wholly dependent occurs before all compensation is paid, and there is only 1 person partially dependent, that person is entitled to compensation according to the extent of his or her dependency; and if there is more than 1 person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency. A person shall not be considered a dependent unless he or she is a member of the family of the deceased employee, or unless such person bears to the deceased employee the relation of widower or widow, lineal descendant, ancestor, or brother or sister.

History: 1969, Act 317, Eff. Dec. 31, 1969 ;-- Am. 1985, Act 103, Imd. Eff. July 30, 1985 ;-- Am. 1994, Act 271, Imd. Eff. July 11, 1994 ;-- Am. 2011, Act 266, Imd. Eff. Dec. 19, 2011

Constitutionality: The Michigan supreme court held violative of the fourteenth amendment the conclusive presumption of dependency for widows set forth in the worker's disability compensation act. *Day v W A Foote Memorial Hospital*, 412 Mich 698; 316 NW2d 712 (1982).

Compiler's Notes: For legislative intent as to severability, see Compiler's note to MCL 418.213. Enacting section 2 of Act 266 of 2011 provides: "Enacting section 2. This amendatory act applies to injuries incurred on or after its effective date."

Popular Name: Act 317

Popular Name: Heart and Lung Act