



Definition of work related injury/disease



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“Accident in terms of COIDA”

Accident means: an accident arising out of and in the course of an employee’s employment and resulting in a personal injury, illness or death of the employee [COIDA].

There are two distinct but nevertheless related elements from the above definition. The accident must have arisen out of the employee’s employment and it must have been in the course of the employee’s employment.



“In the course of employment”

The accident must have occurred while the employee is performing duties which he or she is contractually bound to perform. [This will include all matters incidental and inherent to the work].

This means that the accident should have occurred because the employee was on duty (at work) doing what he or she was employed to do (job description). It basically means that the employment caused the accident or exposed the worker to the risk of the accident while the worker was doing a task that he or she was employed to do.



“In the course of employment”

The test is not whether the employee was on the premises of the employer, but rather whether he or she was within the sphere or area of his or her employment .

Thus the employee must be acting on the instruction and under the control or authority of his employer. [in other words furthering the interest of the employer].



Examples *-in the course of employment*

A farm manager is injured while traveling into town after working hours in a vehicle not belonging to an employer to purchase an urgently needed spare part.

The question is what was he busy doing at the time- was he acting for the purpose of the employer, was he serving the interests of the employer, or was it in connection with the business of the employer?

A motor mechanic is injured whilst busy making tea?



'Arising out of' Employment

- There must be a causal connection between the accident and employment. *Is the act causing the injury a risk incidental to employment?*
- In other words, one must determine what relationship there is between the accident and the activity which the employee is expected to do.
- One must look at the duties of the employee and ask, in what sense the accident arose out of employment.
- Does the employment expose the employee to the risk on the particular accident?- **[Twalo and Khoza**



‘Arising out of’ Employment

- **An employee got injured in a lift just after the end of her working day at 16:30 whilst on her way home.**
- **The question was whether she was in the course of going about what her employer expected of her in her capacity as an employee.**



'Arising out of' Employment

- A female pediatrician was raped by an intruder who had gained access to the hospital premises.
- The SCA concluded that a rape perpetrated by an outsider on a doctor (a pediatrician in training) on duty at the hospital did not arise out of the doctor's employment and thus the rape was not incidental to such [doctor]'s employment.



Case Study

- **An employee got injured when he fell whilst running away from a snake when he was on his way to his car to fetch documents.**
- **A sales person working for a car dealership got injured whilst chasing a cat at work.**
- **A sales person got injured in a car accident whilst driving from a shooting range on his way to fetch his fiancé's jacket who happened to be in the car with him- he claimed that he was going to demo the car to a client at the time of the accident.**



Case Study

- An employee was diagnosed with severe persistent allergic rhinitis.
- The employee claimed that she was continuously exposed to bacteria from an air conditioner at her workplace. Thus her condition was aggravated by the air conditioner.
- Causal connection between the condition and workplace?



Case Study

- **An employee was injured in a mine accident in April 2009, and developed PTSD shortly thereafter.**
- **The PTSD was never properly treated until early 2017.**
- **The employee was treated for heart condition in 2017, and it was argued that the PTSD was the trigger for the heart condition. [causal connection?]**



Case Study

- A specialist physician concluded that the employee suffers from “broken heart syndrome” also known as “Takatsubo” Cardiomyopathy.
- The employee was also seen by two cardiologists but they did not make a diagnosis of Takatsubo.
- The employee is known to be suffering from ischemic heart disease.



PTSD

- **A press photographer suffered a break down due to exposure to many stress-induced events over numerous years.**
- **A series of events vs one single traumatic event [stressor].**
- **Causal link between employment and accident?**



THANK YOU

