

otherwise have been made thereafter in the same case under the provisions of this Article and said case shall thereupon be deemed to have been finally settled and closed.

This section (as it stood prior to act of 1920, ch. 456) did not permit dependents to proceed against "other person" and against employer for compensation, but only against one or other. Prayers containing no reference to compensation paid by either employer or insurer are defective. Count inapplicable to a suit under this section. Verdict under this section wholly and only for damages sustained by dependents because of death complained of, such verdict being apportioned among dependents, is reversible error. Effect of "cost plus" contract. *Steel Co. v. Concrete Pile Co.*, 141 Md. 87.

Where a widow secures workmen's compensation benefits, she cannot thereafter bring suit at law against a third party responsible for death of her husband; under this section she must elect between claiming compensation and suing at law. See, however, sec. 45. *Hagerstown v. Schreiner*, 135 Md. 651 (decided prior to act 1920, ch. 456). And see *Jirout v. Gebelein*, 142 Md. 697.

Where an injured man has been awarded compensation, a suit may be brought against a third party at fault and same measure of recovery applies as if injured employee had elected to pursue his remedy against such third party. That suit is in name of employer for benefit of insurance company and injured employee, if not in strict compliance with the statute, is immaterial, as act expressly directs application of amount recovered. *Bethlehem Steel Co. v. Variety Co.*, 139 Md. 325.

The agreement of a contractor engaged in operations upon railroad property to indemnify railroad company against liability for injuries sustained by any person because of such operations is not a bar to an action against railroad company under this section. Proper parties. *State v. N. Y., P. & N. R. Co.*, 141 Md. 307.

Prayers and evidence considered in a suit under this section, compensation having been paid by employer. No liability. *B. & O. R. R. Co. v. Walsh*, 142 Md. 231.

For a suit brought by employer against certain corporations in accordance with this section, see *Kaufman Beef Co. v. United Rwys. Co.*, 135 Md. 526.

Cited but not construed in *Hyde v. Blumenthal*, 136 Md. 451.

See notes to sec. 15.

An. Code, sec. 59. 1914, ch. 800, sec. 58.

59. If the provisions of this article relative to compensation for injuries to or death of employes become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this article by lump payment or completed periodical payments shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death. Provided, that such action be commenced within one year after such repeal or adjudication, but in any such action any sum paid to the employe on account of injury for which the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have insured himself as provided for in this article without delinquency, such sums as may have been paid to the employe or his dependents on account of injury or death, shall be credited upon recovery as payment thereon.

The workmen's compensation act is not in violation of either Federal or Md. Constitution. Scheme of act. The phrase "the law of the land" in Md. Constitution means same as "due process of law" in Federal Constitution. *New York Central R. R. Co. v. White*, 243 U. S. 188, quoted and approved. The workmen's compensation commission is not a court and is not clothed with judicial power within meaning of constitutional provisions. *Solvuca v. Ryan & Reilly Co.*, 131 Md. 265.