

without saving clause; provision is not unconstitutional, since it is merely procedural. *Thomas v. Penna. R. Co.*, 162 Md. 509; *Moller Motor Car Co. v. Unger*, 166 Md. 204.

Under this section, as amended by ch. 406, 1931, on appeal from the Commission, only the evidence taken before the Commission can be considered by the court and the jury. *Celanese Corp. v. Lease*, 162 Md. 596; *Sinsko v. Weiskettel & Sons*, 163 Md. 617.

The appeal allowed by this section is from the "decision", and not from the findings or opinion; if the order of the Commission is right and proper, it shall be affirmed even though the findings of the Commission were erroneous. *Tobacco Co. v. Goslin*, 163 Md. 78.

Where terms and manner of employment are uncontroverted, the question of relationship, whether independent contractor or employee, is a question of law. *Barnes v. Myers*, 163 Md. 209.

This section, as amended by ch. 406, 1931, does not preclude court from rejecting any evidence found in the record; hearsay evidence. *Coal Co. v. Chisholm*, 163 Md. 49.

This section does not require the filing of papers or docketing of suit in court to which appeal is taken, within thirty days of the decision, as a preliminary to the required notice to a member of the commission. After appeal from Commission, the case must be heard and decided upon the record before the Commission under act 1931, ch. 406, and record cannot be returned to Commission for additional testimony. Conflicting testimony is question for jury. *Monumental Printing Co. v. Edell*, 163 Md. 551; *Mut. Ins. Co. v. Fid. & Guar. Co.*, 164 Md. 120; *Steel Co. v. De Mario*, 164 Md. 273 (decided prior to acts 1933, ch. 508, and 1935, ch. 545).

Trial court is not required by law, before hearing an appeal from the Commission without a jury to adopt and announce issues of fact. *Mut. Ins. Co. v. Fid. & Guar. Co.*, 164 Md. 120.

Where docket entry, on appeal from Industrial Accident Commission, was verdict in favor of plaintiff and answer of the jury to the issue was "yes", thereby reversing ruling of Commission, the court on appeal will assume that docket entry was by order of court and intended to embody its judgment. *Federal Tin Co. v. Hoffman*, 164 Md. 436.

The "burden of proof" on appeal, under ch. 406, 1931, means that appellant, in the proceedings before the Commission, met the burden by proving facts which should have led to a different conclusion than that reached by it. *Schenmel v. Gatch & Sons, etc., Co.*, 164 Md. 673.

The burden of proof provision is applicable where the evidence in the record is directed to the inquiry whether or not there was an accidental injury, and it tends to show there was such injury. *Catherman v. Ennis*, 164 Md. 519.

This section referred to in construing sec. 64. *Pa. R. R. Co. v. Stallings*, 165 Md. 618.

While an appeal must be heard and determined upon the record made before the Commission, the record must be a proper one (decision prior to act of 1935, ch. 545). *Dembeck v. Shipbuilding Corp.*, 166 Md. 25.

Time within which an appeal may be taken dates from order made after revocation of original order. *Saf-T-Cab Service v. Terry*, 167 Md. 48.

Cited but not construed in *Broniszewski v. B. & O. R. R. Co.*, 156 Md. 452; *Miskowiak v. Bethlehem Steel Co.*, 156 Md. 691; *Baltimore v. Libowitz*, 159 Md. 36.

See notes to secs. 10 and 65.

An. Code, 1924, sec. 57. 1912, sec. 57. 1914, ch. 800, sec. 56. 1931, ch. 404.

57. If the Commission or the court before which any proceedings for compensation or concerning an award of compensation have been brought, under this Article, determines that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceeding upon the party who has so brought them. Claims for legal services in connection with any claims arising under this Article and claims for