

practice is to present questions of fact to court so that they may be passed upon before jury is sworn. *Central Construction Co. v. Harrison*, 137 Md. 258.

Case involving whether an aneurism resulted from a blow received in the course of employment. Burden of proof. Evidence. Prayers. This section does not mean that evidence must be offered in court in addition to that before commission. *Stewart & Co. v. Howell*, 136 Md. 433.

#### **Burden of proof.**

In view of the portion of this section, dealing with burden of proof, lower court would not have been justified in ruling as a matter of law that an injury did not occur in course of, and arise out of, claimant's employment—see notes to sec. 80. Prayers. *Thistle Mills v. Sparks*, 137 Md. 121; *Coastwise, etc., Co. v. Tolson*, 132 Md. 206; *Jewel Tea Co. v. Weber*, 132 Md. 178; *Bell v. Steen*, 137 Md. 392; *Aetna Life Ins. Co. v. Bittinger*, 159 Md. 268.

Employer held not, as a matter of law, to have met burden of proof imposed by this section—see notes to sec. 80. *Beasman v. Butler*, 133 Md. 384.

#### **Generally.**

While an insurance carrier may appeal from a decision of commission, such appeal must be taken in county where accident occurred and where insurance was obtained, and not in county where the main office of insurance company is situated. Purpose of workmen's compensation law; how it will be construed. If a state carried insurance, its appeal from a decision of the commission would have to be made in court for county where business was obtained, and not to Anne Arundel or Baltimore City courts. *Brenner v. Brenner*, 127 Md. 192.

Where compensation has been awarded against an employer, latter may not thereafter set aside the award in equity on the ground of mistake, in that claimant was not its employee. When equity will relieve on ground of mistake. Where an appeal is provided by statute, such appeal is exclusive as to objections going to legality or regularity of proceeding. *U. S. F. & G. Co. v. Taylor*, 136 Md. 545.

The right to open and close argument follows burden of proof, and hence upon appeal appellant has such right. *American Ice Co. v. Fitzhugh*, 128 Md. 383.

An appeal not taken in time, as provided by this section, must be dismissed, as court is without jurisdiction. *Holland Mfg. Co. v. Thomas*, 136 Md. 78.

An order of commission denying motion to reopen a case is appealable. *Bethlehem Corp. v. Simmons*, 143 Md. 507.

Though witnesses in jurisdiction of court, testimony from record before commission may be read; error, however—though not prejudicial in this case—for counsel of claimant to read jury evidence introduced by employer and insurer. *Savage Mfg. Co. v. Magne*, 154 Md. 51.

Conclusion of commission that injury arose out of employment places burden upon party appealing of proving contrary; when only trial court may withdraw case from jury. *Todd v. Furniture Co.*, 147 Md. 354 (decided prior to act 1927, ch. 587).

In view of this section, court may not on appeal from commission, where there is conflict of evidence, decide as matter of law that finding by commission of permanent partial disability was error. *Bottling Works v. Lilly*, 154 Md. 244.

Failure to accept medical attention. When granting of erroneous issue and refusal of proper one not prejudicial; prayers—burden of proof. See notes to sec. 54. *McCulloh & Co. v. Restivo*, 153 Md. 68 (decided prior to act 1927, ch. 587).

Decision of commission on question of wilful misconduct *prima facie* correct. Court of Appeals does not review questions of fact, but of law only; burden of proof. *Harris v. Dobson & Co.*, 150 Md. 75 (decided prior to act 1927, ch. 587).

Where contract is indefinite or evidence conflicting, question as to whether one is independent contractor or employee is for jury; facts undisputed; question of law; erroneous prayers. *Bogatsky v. Swerdlin*, 152 Md. 22; *Hygeia Ice, etc., Co. v. Schaeffer*, 152 Md. 235 (decided prior to act 1927, ch. 587).

Amendment by adding wife and next friend as appellant, proper; no exception. *Bramble v. Shields*, 146 Md. 507.

This section referred to in construing sec. 72—see notes thereto. *Md. Casualty Co. v. Elec. Mfg. Co.*, 145 Md. 652.

Jury trial on issues of fact not essential to validity of Workmen's Compensation Law; provision that appeal from award shall not act as stay is valid. *Branch v. Indemnity Ins. Co.*, 156 Md. 483.

The provisions of this section as to burden of proof after award by the Commission held to apply. *Weston-Dodson Co. v. Carl*, 156 Md. 535.

Refusal or failure of Commission to excuse delay of claimant is reviewable on appeal. *Shipbuilding Co. v. Praviewski*, 156 Md. 412.

When facts are conceded or undisputed, and there is no dispute as to inferences to be drawn, their legal significance is a matter of law to be determined by the court. *Engineering Co. v. Harris*, 157 Md. 491.

This section referred to in construing secs. 14, 31, *et seq.* *Owners' Realty Co. v. Bailey*, 157 Md. 143.