

his dependents, and the amount thus received by the injured employee or in case of death by his dependents shall be in lieu of any award that might 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.

In action by truck driver against steamship company for injuries sustained by him when stevedores of company dropped heavy piece of steel, held that, in view of evidence, the question whether stevedores were under orders of plaintiff or were acting at time as employees of company, was for the jury. *Ericsson Line v. Hawkins*, 174 Md. 223.

Employee of window cleaning company, while in defendant's store for purpose of washing walls thereof, being injured by fall of molding on which he stood, as result of assurance by manager of store, entitled to have question of contributory negligence submitted to jury. *Virginia Dare Store v. Schuman*, 175 Md. 287.

Employer's insurer has direct right to enforce in own name the claims of injured employees against alleged wrongdoing third party and this right is exclusive for a period of two months following award. *The Maine*, 28 F. Supp. 578.

Damages recoverable under this section are measured by same rule, whether liability arises under Art. 67 or under this Article, viz., pecuniary loss. *Assurance Corp. v. B. & O. R. R. Co.*, 173 Md. 251.

This section cited in sustaining claim filed under Sec. 51 on day before last on which it might be filed. *Greenwald, Inc. v. Powdermaker*, 170 Md. 180.

Cited in *Engineering Co. v. Hunsberger*, 171 Md. 18; *Ebert Ice Cream Co. v. Eaton*, 171 Md. 31; *Foreman Co. v. Williams*, 171 Md. 56.

Cited but not construed in *Fid. & Guar. Co. v. Baking Co.*, 172 Md. 27.

This section does not create new liability, but designates manner of enforcing liability theretofore existing and changes parties benefited. Not necessary to make state legal plaintiff in case suit is brought by dependents of deceased employee; jury may apportion verdict among dependents, after awarding insurer amount paid by latter. Fall of scathing—presumption of negligence. *Clough & Molloy v. Shilling*, 149 Md. 192.

Injured employee or dependents not entitled to damages recovered from "other person" until employer is reimbursed for all payments under award, including court costs; counsel of widow of employee in suit against *tortfeasor* not entitled to compensation from insurer. Widow not statutory agent of insurer. *Barrett v. Indemnity Co.*, 152 Md. 259.

In suit by injured employee against person other than employer, not necessary for jury to find no action by employer or insurer was brought, if this is conceded. Entry to use of employer or insurer; apportionment of verdict. *Stark v. Gripp*, 150 Md. 657.

In suit against *tortfeasor* by insurer, defendant's liability is independent of fact and amount of award, the insurer being subrogated to rights of dependents, and measure of damages is same as if dependents had proceeded against him in first instance. *Demurrer*. Parties in interest. *Md. Casualty Co. v. Elec. Mfg. Co.*, 145 Md. 646.

Chauffeur of owner of truck while driving around city block at request of foreman of repair shop to test repairs not acting in scope of employment. *Trautman v. Warfield & Rohr Co.*, 151 Md. 418.

Provision authorizing employee or his dependents to sue if employer or insurer fails to bring suit within two months, does not restrict to such period employer's or insurer's right of action. Concurrent rights of action; one recovery. *State v. Francis*, 151 Md. 149.

Employer, if not self-insured, not necessary party to enforce liability of third person. Piling of freight. Contributory negligence. *Texas Co. v. W., B. & A. R. Co.*, 147 Md. 171.

Effect of failure of employer or insurer to sue within two months. *Md. Cas. Co. v. Elec. Mfg. Co.*, 145 Md. 652; *State v. Francis*, 151 Md. 151.

When employee of contracting firm loaned to another company, compensation having been awarded against contracting firm and suit brought against other company under this section, held question for jury whether he was servant of defendant or of contracting firm; contributory negligence also for jury. *Sugar Refining Co. v. Gilbert*, 145 Md. 254.

Duty of police officer to use care in performing duties; failure to use such care amounting to contributory negligence, he may not recover for injury. Collision with truck; excessive speed. *Sudbrook v. State*, 153 Md. 195.

Contractor for erection of building, with exception of electric equipment, was not statutory employer under sec. 77 of the employee of contractor for electric equipment; contractor to erect building not liable for injuries received by employee of contractor for electric equipment due to breaking of joist where building contractor did all that average prudent and careful man would have done to make place of work safe. *Long Co. v. State Accident Fund*, 156 Md. 641.

This section contrasted with similar law of Texas in holding that Maryland courts are not justified in enforcing cause of action which insurance company might have under Texas Statutes. *London, etc., Co. v. Steamship Co.*, 161 Md. 145.

Prayers and evidence considered in a suit under this section, compensation having been paid by insurer of truck; error to grant instruction which on its face offers jury