

have been given, or on the ground that the State Accident Fund, insurance company, or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this article, provided, however, that the burden of proving that it or he has been prejudiced by such failure on the part of the employee or by delay in giving such notice shall be upon the State Accident Fund, insurance company, or employer, as the case may be. Provided, also, failure to give either of such notices shall be deemed waived unless objection is made at a hearing on the claim prior to any award or decision thereon. Actual knowledge of an occupational disease and of exposure to the conditions causing it, by the employer in whose employment the employee was last injuriously exposed, or by the responsible superintendent in charge of the work, shall be deemed notice of its contraction. If no claim for disability or death from an occupational disease be filed with the Workmen's Compensation Commission within two (2) years, OR IN THE CASE OF A PULMONARY DUST DISEASE WITHIN THREE YEARS, from the date of disablement OR DEATH, or the date when the [claimant] EMPLOYEE OR HIS DEPENDENTS first has actual knowledge such disablement was caused by [his] THE employment, or death, as the case may be, the right to compensation for such disease shall be forever barred; provided, however, that the failure to file a claim within the time limited herein shall be deemed waived unless objection to such failure be made at a hearing on such claim before any award or decision thereon. Notice or claim shall be deemed waived in case of disability or death where the employer or insurance carrier makes compensation payments therefor, or within the time above limited, the employer or his insurance carrier by his or its conduct leads the employee or claimant reasonably to believe that notice or claim has been waived by his or its affirmative conduct. The provisions of this subsection shall not be applicable to claims for disease caused by ionizing radiation, in such cases if the employee, or his dependents in the case of employee's death, have actual knowledge of exposure and disability due to such exposure, to ionizing radiation, such claim shall be filed within two years of such actual knowledge.

36.

(1)(a) In case of total disability, adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee by the employer or insurer during the continuance of such total disability, not to exceed a maximum of sixty-six and two-thirds per centum of the average weekly wage of the State of Maryland as determined by the Department of Employment Security, as provided in § 36(2) of this article and not less than a minimum of twenty-five dollars per week, unless the employee's established weekly wages are less than twenty-five dollars per week at the time of injury, in which event he shall receive compensation in an amount equal to his average weekly wages but not to exceed a total of \$45,000.00; PROVIDED, HOWEVER, THAT IF THE EMPLOYEE'S TOTAL DISABILITY SHALL CONTINUE AFTER A TOTAL OF \$45,000.00 HAS BEEN PAID, THEN FURTHER WEEKLY PAYMENTS AT THE RATE PREVIOUSLY PAID SHALL BE PAID TO HIM DURING SUCH DISABILITY. Loss or loss of use of both hands, or both arms, or both feet or both legs, or both eyes, or of any two thereof, shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

(b) Whenever any person who has suffered the loss, or loss of use of a hand, arm, foot, leg or eye, shall enter into a contract of employment, it shall be permissible for the employee to waive in writing, either in the contract of employment, or by a separate written instrument, any right to compensation to which he would be entitled because of the preexisting permanent partial disability, in the event of subsequent accidental injury, and in such cases the employee so suffering an additional accidental injury, shall be entitled to the compensation for