

## Article 101 - Workmen's Compensation

58.

Where injury or death for which compensation is payable under this article was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the employee, or in the case of death, his personal representative or dependents as hereinbefore defined, may proceed either by law against that other person to recover damages or against the employer for compensation under this article, or in case of joint tort-feasors against both; and if compensation is claimed and awarded or paid under this article, any employer, if he is self-insured, insurance company, association, the State Accident Fund, [or] the Subsequent Injury Fund, OR THE UNINSURED EMPLOYERS' FUND, may enforce for their benefit, as the case may be, the liability of such other person; provided, however, if damages are recovered in excess of the compensation already paid or awarded to be paid under this article, and also any payments made for medical or surgical services, funeral expenses or for any of the other purposes enumerated in § 36 of this article, then any such excess shall be paid to the injured employee, or in case of death to his dependents less the expenses and costs of action incurred by the employer, insurance company, association, State Accident Fund, [or] the Subsequent Injury Fund, OR THE UNINSURED EMPLOYERS' FUND, as the case may be. If any such employer, insurance company, association, State Accident Fund, [or] the Subsequent Injury Fund, OR THE UNINSURED EMPLOYERS' FUND, shall not, within two months from the passage of the award of this Commission, start proceedings to enforce the liability of such other person, the injured employee, or in case of death, his dependents, may enforce the liability of such other person, provided, however, that if damages are recovered the injured employee or in case of death his dependents may first retain therefrom the expenses and costs of action incurred by the said employee or in case of death his dependents, and the employer, insurance company, association, the State Accident Fund, [or] the Subsequent Injury Fund, OR THE UNINSURED EMPLOYERS' FUND, as the case may be, shall be reimbursed for the compensation already paid or awarded and any amount or amounts paid for medical or surgical services, funeral expenses or for any of the other purposes enumerated in § 36 of this article, except court costs and counsel or attorney's fees, which shall be paid by the injured employee and/or his dependents, and the employer, insurance company, association, State Accident Fund, [or] the Subsequent Injury Fund, OR THE UNINSURED EMPLOYERS' FUND, in the proportion that the amount received by each shall bear to the whole amount paid in settlement of any claim or satisfaction of any judgment obtained in the case, and the balance in excess of these items shall inure to the injured employee, or in case of death, to 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