

DRESSER MINERALS et al v.
Henry HUNT, Employee, by
Ruth HUNT, Guardian

77-171

556 S.W. 2d 138

Opinion delivered October 10, 1977
(Division I)

1. WORKMEN'S COMPENSATION CASES — STATUTE OF LIMITATIONS FOR CLAIM FOR DISABILITY — EXCEPTION. — Ordinarily, the statute of limitations for a claim for disability in a workmen's compensation case is two years, but an exception is provided in Ark. Stat. Ann. § 81-1318 (b) (Repl. 1976), whereby in cases where compensation for disability has been paid on account of injury, a claim for additional compensation is barred unless filed within one year from the date of the last payment of compensation, or two years from the date of the injury, whichever is greater.
2. WORKMEN'S COMPENSATION — STATUTE OF LIMITATIONS — CLAIM FILED BECAUSE OF EMPLOYER'S VIOLATION OF SAFETY REGULATION

FALLS WITHIN EXCEPTION. — Where a 15% increase in compensation was awarded by the Commission pursuant to Ark. Stat. Ann. § 81-1310(d) (Repl. 1976), because it found that the injury was caused in substantial part by the employer's violation of a safety regulation, there is no reason to exempt such a claim from the basic rule that a claim for additional compensation is not barred if filed while compensation is actually being paid.

3. WORKMEN'S COMPENSATION — STATUTE OF LIMITATIONS — APPLICATION OF EXCEPTION. — Although a claim for a 15% increase in compensation filed pursuant to Ark. Stat. Ann. § 81-1310 (d) (Repl. 1976) was not filed until two years and four months after the date of an injury, it is not barred by the statute of limitations where compensation had been paid from the date of the injury.
4. WORKMEN'S COMPENSATION ACT — CONSTRUCTION — LIBERALLY CONSTRUED IN FAVOR OF CLAIMANT. — The Workmen's Compensation Act is to be liberally construed in favor of the claimant.
5. WORKMEN'S COMPENSATION — "NURSING SERVICES" — WIFE'S ENTITLEMENT TO.—The Commission was fully justified in awarding \$100.00 a week to the injured employee's wife for nursing services where the employee was an invalid and an incompetent and his wife performed such services as giving her husband intramuscular injections, enemas, hot baths, leg and back rubs, and other care around the clock, and where she had to give up a job paying \$100.00 a week in order to devote her entire time to caring for her husband.
6. WORKMEN'S COMPENSATION — NURSING SERVICES — DATE OF WIFE'S ENTITLEMENT TO AWARD FOR NURSING SERVICES QUESTION OF FACT FOR COMMISSION. — The date on which the wife of an injured employee was entitled to an award for nursing services is a question of fact for the Commission and will be affirmed unless it is shown that the Commission's determination is not based on substantial evidence.
7. WORKMEN'S COMPENSATION — DISABILITY, DETERMINATION OF — QUESTION OF FACT. — The determination of disability is essentially one of fact, and the Supreme Court will not substitute its judgment by holding that a finding of total permanent disability made by the Commission five and one-half years after the employee's injury should have been further deferred, where there is substantial evidence to support the Commission's finding.

Appeal from Garland Circuit Court, *Henry M. Britt*, Judge; affirmed.