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WORKMEN'S COMPENSATION ACT — WHERE EMPLOYEES, STATE HIGHWAY DEPARTMENT, ARE TRANSPORTED IN STATE HIGHWAY TRUCKS, FROM HIGHWAY GARAGE AND RETURN, TO WORK IN COUNTY, IF INJURED, INJURY IS "IN COURSE OF EMPLOYMENT" — IF LEGAL REQUIREMENTS MET, SUCH INJURED EMPLOYEES WOULD BE ENTITLED TO PARTICIPATE IN STATE INSURANCE FUND.

SYLLABUS:

*Employees of the state highway department who may be injured while being transported in state highway trucks from the state highway garage to various places in the county to work on highways or during a like return trip to the state highway garage are injured in the course of their employment. If the other facts and circumstances meet all other requirements of the law the injured employees would be entitled to participate in the State Insurance Fund.*

Columbus, Ohio, March 14, 1941.

Hon. T. B. Williams, Prosecuting Attorney,  
New Lexington, Ohio.

Dear Sir:

Your recent request for my opinion reads in part as follows:

"A great many men are employed by the State Highway Department in this county. These employees are hauled in State Highway trucks from the State Highway Garage in New Lexington to the various places in the county to work on the highways, and after the day's work is completed they are returned in the State Highway trucks to the State Garage from which they started, then they separate and go to their several homes. Suppose while going to or from their work in such trucks and an accident happens to the State Highway truck and an employee is injured, in such case would such employee be entitled to compensation under the Workmen's Compensation Law?"

In answering this inquiry, I assume that there is either an express or an implied understanding with the employees of the highway department that they are to report each morning at the state highway garage and that transportation will be provided from that point to the place of

actual operations for the day and return. I believe this assumption is clearly in accord with the facts.

This question has been before the courts in only a few cases. In the case of *Conrad, Admx., v. The Youghiogheny & Ohio Coal Company*, 107 O.S. 387, we find this statement on page 390:—

“If, in connection with the employment, the employer was under an obligation to transport his employe, the relationship would continue to subsist; in such event the employe might still be considered as continuing in the course of employment under Section 1465-68, General Code.”

In *DeCamp v. The Youngstown Municipal Railway Company*, 110 O.S. 376, the syllabus reads as follows:

1. “Where an employer contracts to carry an employe to and from his work, the employment begins when the employe enters the conveyance to go to the place of work.

2. “An employe of a street railway who was injured at the car stop where he left the street car in order to go to his employment, having been conveyed to his work on the street car as a part of the contract of employment, is injured in the course of his employment, and is remitted to the Workmen’s Compensation Act for compensation.”

The opinion in this case contains the following language on page 377:—

“It is the general rule that if an employe is conveyed to and from his work in a conveyance furnished by the employer, under an express or implied contract made by the employer to furnish such conveyance, an injury occurring to an employe while on the journey arises within the course of employment. Bradbury’s *Workmen’s Compensation* (3 Ed.), pp. 480, 481, and 482.”

The opinion also cites a number of authorities from jurisdictions other than Ohio in support of the foregoing proposition.

More recently the question has been passed upon in the case of *Fisher v. Industrial Commission*, 55 Ohio App., 524, (December 28, 1936) (M.C.O.), the syllabus of which reads:

“Where an employer, as a part of the contract of employment, furnishes an employee with an automobile, paid all expenses in connection therewith including garage rent, and while driving the automobile from his office to the garage at the close of a day’s work the employee received personal injury, such injury was received while in the course of employment and he is

entitled to compensation under the Workmen's Compensation Act."

Wherefore, in specific answer to your inquiry, it is my opinion that employees of the state highway department who may be injured while being transported in state highway trucks from the state highway garage to various places in the county to work on highways or during a like return trip to the state highway garage are injured in the course of their employment. If the other facts and circumstances meet all other requirements of the law the injured employes would be entitled to participate in the State Insurance Fund.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.