

**INDUSTRIAL INJURY BENEFIT****Injury by accident—incapacity due to vaccination reaction**

A nursing auxiliary at a hospital, having undergone vaccination at the request of her employers, became incapable of work because of "vaccination reaction" and claimed injury benefit.

*Held* that injury benefit was not payable. Vaccination reaction, the immediate cause of incapacity, was not an injury by accident. Decision R(I) 12/58 compared.

1. My decision is that the claimant did not suffer injury caused by accident arising out of and in the course of her employment on or about the 27th April 1960.

2. The claimant, a nursing auxiliary at a hospital, was incapable of work from the 7th to the 14th May 1960, the cause of her incapacity being vaccination reaction, following vaccination on the 27th April 1960. She has claimed injury benefit on the ground that she had undergone this vaccination at the request of her employers, in order to afford a protection which was considered necessary for nursing staffs in hospitals. The resulting period of incapacity was, she contended, therefore, due to a circumstance directly arising out of her employment. At the hearing of her appeal before the local appeal tribunal the hospital secretary explained that it was not a condition of the claimant's service that she should be vaccinated, and that no action would have been taken if she had refused to be vaccinated.

3. It has been held in Decision R(I) 12/58 that a claimant, who was vaccinated on the advice of her doctor after she had been exposed to smallpox infection in the course of her employment and became incapable of work from "vaccination reaction" had not suffered injury caused by accident arising in the course of her employment. It was said by the Commissioner that neither the claimant's decision to be vaccinated nor the vaccination itself which were the effective causes of the claimant's injury constituted "accident" within the meaning of section 7 of the National Insurance (Industrial Injuries) Act, 1946. The claimant, however, in the present case has contended that the untoward event which can reasonably be described as accident was her vaccination reaction. I do not feel able to accept this view. Vaccination is undertaken as a protective device, and it is well recognised that reaction will occur if the patient was not naturally immune from the infection. The measure of the reaction is related to the need for the vaccination.

4. In the result, I feel bound to hold that the claimant has not proved that she suffered injury caused by accident out of and in the course of her employment on or about the 27th April 1960.

5. I must dismiss the claimant's appeal.

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