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Student nurse contracted typhoid fever.

*Held* that the conditions of her work in the hospital seemed to make it more probable that her infection was caused by her work rather than otherwise. Claim allowed.

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1. My decision is that the claimant suffered personal injury caused on 14th February, 1950 by accident arising out of and in the course of her employment.

2. The facts have been fully set out in the observations of the Insurance Officer now concerned with the appeal, and I will recapitulate only those which appear to me to be now relevant.

3. The claimant, who is a young married woman, was employed as a student nurse at the hospital for just over a year, from 8th February, 1949 to 28th February, 1950. On 5th March, 1950 she was found to be suffering from typhoid fever. The question is whether the typhoid fever is an injury caused by accident arising out of and in the course of her employment, within the meaning of Section 7(1) of the National Insurance (Industrial Injuries) Act, 1946.

4. There had been one case of typhoid fever at the hospital within the six months before the claimant's employment ended on 28th February, 1950. That had been the case of a nurse who was found to be suffering from the

disease on 3rd January, 1950, but the claimant had not been in contact with that typhoid patient during the course of her (the claimant's) duties. How that typhoid patient came to be infected is not stated. On the discovery of this case of typhoid, quite a large investigation was made in the hospital to find carriers, but none was found. It is, however, extremely difficult to detect a carrier, who may well escape discovery in many successive examinations. It does not follow, from the negative result of the investigation, that there were no carriers in the hospital. It seems that four out of five carriers are women. A person may continue to be a chronic carrier, persistently producing and discharging the germs of the disease, for many months or years, without obvious disturbance in the health of the carrier. There are carriers going about amongst the general population.

5. For the last four months of her service in the hospital the claimant had been in poor health. She seems to have become thoroughly run-down, and must have been an easy prey to infection. She spent the last few weeks of her employment at work in a women's ward. Here there had been many doubtful cases, that is patients suffering from undetermined illnesses, and several deaths had occurred there during that period. There were, in addition, many arrivals and departures and some of the patients were not clean. It was part of the claimant's duty to handle bed-pans and linen, some of which was soiled by excreta.

6. The claimant lived at home, but was on duty daily, except for 1½ days in each week. She left home at 6 a.m., and returned home between 5 p.m. and 6 p.m., sometimes later. During January and February, 1950, owing to her poor health, she never went out for a meal; her only meals were taken in the hospital and at home. There was no known case of typhoid having been contracted anywhere in her locality from food.

7. The extreme incubation period for typhoid is from 5 to 25 days; the common period is from 10 to 16 days. In all probability the claimant had already contracted typhoid fever before she gave up her employment at the hospital on 28th February, 1950. She came home on that day, went to bed, and stayed in bed for five days. She was admitted as a patient to her own hospital on 5th March, 1950, very ill. On 9th March, 1950 her illness was with certainty diagnosed as typhoid.

8. The typhoid bacillus may be propagated by contaminated food, milk or drinking water, and also by contact with contaminated articles, such as enema syringes, bed-pans, soiled linen, faeces and urine. It is not explicitly stated in the papers before me, but I understand that infection may arise from a single attack and lodgment by the bacillus, especially in a victim whose resistance is lowered by ill health.

9. In the present case, it is possible that the claimant may have contracted typhoid from a carrier going about amongst the general population, or from infected food (milk for example) away from the hospital. She may, on the other hand, have contracted it while at work in the hospital. What I have to consider is whether the proved facts are equally consistent with either alternative, or whether, on the other hand, they point rather in one direction than the other. In my judgment, the facts point plainly to the work at the hospital as being the more likely source of infection. I exclude from consideration the fact that another nurse in the hospital was found on 3rd January, 1950 to be suffering from typhoid, because I do not know the origin of that infection; it may have come from outside the hospital. But the

known conditions of the claimant's work in the hospital seem to me to make it very much more probable that her infection was caused by her work rather than otherwise.

10. The principles which have to be applied to facts like these were thus stated by Lord Birkenhead, when Lord Chancellor, in *Lancaster v. Blackwell Colliery Co.*, 12 B.W.C.C. at p. 400 :—

“ If the facts which are proved give rise to conflicting inferences of equal degrees of probability, so that the choice between them is a mere matter of conjecture, then of course the applicant fails to prove his case, because it is plain that in these matters the onus is on the applicant. But where the known facts are not equally consistent, where there is ground for comparing and balancing probabilities as to their respective value, and where a reasonable man might hold that the more probable conclusion is that for which the applicant contends, then the arbitrator is justified in drawing an inference in his favour.”

I have been guided by these principles in reaching the conclusion that this claim should succeed.

11. It is necessary for me to fix the date of the accident. Assuming the illness to have commenced on 28th February, 1950, the date of infection, which is the date of the accident, would be, taking an average period of incubation, about 14 days before, that is the 14th February, 1950. The injury benefit period began accordingly on 14th February, 1950, but the claimant did not become incapable of work until 28th February, 1950. I therefore hold (in accordance with Section 11(1) and (4) of the National Insurance (Industrial Injuries) Act, 1946) that injury benefit should begin on 28th February, 1950.

12. I allow the claimant's appeal.

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