

AMP FIRE & GENERAL INSURANCE CO LTD
v MILTENBURG

C Privy Council: Lord Diplock, Lord Simon of Glaisdale, Lord Edmund-Davies,
Lord Scarman and Lord Brandon of Oakbrook

Jan 25; March 9, 1982

Workers' compensation — Insurance — Indemnity — Liability of insurer — Liability for damages independently of Act — Statutory maximum cover — No deduction for compensation paid — Workers' Compensation Act, 1926, s 18 (1) (now amended).

D *Insurance — Policy of — Construction — Statutory Requirement for policy — Legislative intention relevant.*

Where a policy of insurance is in a statutory form it should be construed according to its terms, although it is legitimate to take into account the provisions and legislative intention of the relevant statute.

E The amount of indemnity payable by an insurer pursuant to a statutory policy under the *Workers' Compensation Act, 1926, s 18 (1) (now amended)*, in respect of liability to pay damages to an injured worker independently of the Act is the amount awarded or the maximum sum insured whichever is the lesser. No deduction is to be made for compensation paid under the Act.

CASES CITED

There are no cases cited in the judgment.

APPEAL

F This was an appeal from the Court of Appeal which held that insurers under the *Workers' Compensation Act, 1926*, were not entitled to deduct a sum paid as compensation pursuant to the Act from the maximum sum of \$150,000 which they were obliged to pay pursuant to the statutory policy in respect of the employer's liability under the Act.

H D Sperling QC and J Maconachie, for the appellant (insurer).

G *B S J O'Keefe QC and P Deakin*, for the respondent (worker).

Cur adv vult

March 9