
Claimant relied on solicitor's advice that he could not claim sickness benefit while suing a 'bus company for damages. Good cause for delay in claiming accepted

1. My decision is that the claimant is not disqualified for receiving sickness benefit from 7th April, 1949 to 20th June, 1949, both dates inclusive.
 2. The claimant was incapable of work throughout the above period, owing to being injured in a road accident. He did not give notice of incapacity, or make a claim for benefit, until 30th June.
 3. His explanation is that, as he was suing an omnibus company for damages, he did not think he could claim sickness benefit. He inquired of the local life insurance collector and of his solicitor whether he could claim benefit, and both advised him that he could not. It was only when he went to the National Insurance Office in respect of another matter that he was correctly informed.
 4. The Local Tribunal found that as he had taken professional advice he was "entitled to rely upon it even though such advice was incorrect." By
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this they meant, of course, that the incorrect advice of his solicitor constituted good cause for failing to give notice of incapacity, or claim benefit, within the prescribed time. They therefore allowed the claim. From this decision the present appeal is brought on the ground that the claimant was not justified in relying upon the advice of his solicitor but should have inquired of persons competent to give official information and instructions at an office of the Ministry of National Insurance.

5. In my opinion this contention is not sound. The claimant's rights under the National Insurance Scheme do not depend upon official policy or upon matters which are peculiarly within the knowledge of the Ministry, but upon the legal interpretation of the National Insurance Acts and the regulations made thereunder, all of which are available to the public.

6. A solicitor is legally qualified to interpret Acts of Parliament and regulations, and is admitted to the roll of solicitors for the purpose *inter alia* of giving advice thereon to members of the public. It is perfectly reasonable for a claimant to consult a solicitor on such a matter and to accept his advice.

7. In saying this I must not be understood to detract in any way from the advice given by the Minister to insured persons, that if in doubt they should ask their nearest National Insurance Office for help and explanation. From a practical point of view in the very great majority of cases that is the soundest and most sensible thing to do, as officials of the Ministry are familiar with the detailed working of the scheme.

8. But if for any reason a person chooses to consult his solicitor on a legal question relating to his rights under the scheme or as to the proper procedure and is advised by him, as a rule it could not be said to be unreasonable to rely on the solicitor's advice.

9. In the circumstances explained, in order to prove good cause for delay in making his claim, it is enough for a claimant to show that he took reasonable steps to ascertain his rights by obtaining the advice of a person qualified to advise him and that the delay was due to his acting on that advice. This the present claimant has shown.

10. The appeal is disallowed.
