

## More Changes to WA Workers Comp Law!

**Sukhwant Singh, Friedman Lurie Singh, Perth**

Prior to the announcement of elections in Western Australia (to be held on 14 December 1996), the Liberal Government drafted the Workers Compensation and Rehabilitation Amendment Bill 1995. This bill further seeks to restrict workers compensation rights in Western Australia.

Prior to June 1993, in WA, an injured person had unrestricted rights to claim damages against his employer for his employer's negligence in causing injuries. The usual common law principles then applied.

As a result of changes in 1993, the common law rights of injured workers were restricted and the worker was not allowed to sue his employer without first applying to court for permission to do so. When applying for permission, the worker had to show either a 30% loss of function of whole body or that the worker was likely to suffer "*future pecuniary loss*" of at least \$103,717.00 (the present "*prescribed amount*"). As a result of decisions in the District Court, the words "*future pecuniary loss*" were defined to include not only future loss of earnings but also future loss of superannuation benefits, future medical and paramedical expenses, future rehabilitation expenses, future need for aids and appliances, future travelling expenses for medical treatment and any loss of a "*pecuniary*" nature caused by the injury. Many workers were thus able to meet the threshold of \$103,717.00. The 1993 changes however placed workers in significant difficulties not only as regards their common law rights but also as regards workers compensation rights where rights to legal representation were severely curtailed for hearings at Work Cover.

The proposed changes announced in the Workers Compensation and Rehabilitation Bill 1995, seeks, amongst other matters, to redefine "*future pecuniary loss*" and to restrict the term to "*future loss of earnings*".

APLA (WA) has launched an intensive campaign against the further proposed changes and has focused on the media, opposition members of parliament and marginal seats. A Campaign Committee has been set up which will prepare and implement strategy in opposing the proposed changes in the face of scepticism that the government will be able to push through its legislation well before the elections. Rumours are abound in the industry that the government, without any public debate or discussion, will push through its legislation in double quick time.

APLA (WA) has written to all plaintiff lawyers with draft letters to be sent to their clients urging them to send these letters to their members of Parliament opposing the proposed changes in the Law. A draft of protests by telephone have also been circulated. It is interesting that it took just a 3% swing in 1993 to put the current Liberal government in power. There are six marginal seats held by the government with less than 3%, 5 of them less than 2%. The government-held seats are Bunbury (0.3%), Yokine (0.5%), Wanneroo (1%), Joondallup (1.5%), Ballajura (1.6%) and Innaloo (2.6%). These seats must be targeted.

APLA (WA) will also raise public awareness and profile on the significant and inequitable differences between insurance entitlements afforded to Ministers and to the ordinary workers. The rights of ordinary workers have been severely curtailed. The rights of Ministers injured whilst engaged as Ministers are substantial. As part of their salary package, Ministers are provided with a personal accident policy paid for by the Joint House Committee of Parliament. The insurance policy covers any injury including injury while travelling from home to work (currently, ordinary workers are deprived of such protection as a result of the 1993 changes). The policy provides to Ministers substantial benefits and payments including Capital Payments ranging up to \$280,000.00 (based on a 1992-1993 policy wording and schedule).

It is clear that the Liberal government has given to itself substantial financial benefits and protections for its members of parliament while, at the same time, wrenching away from ordinary workers similar entitlements. The disparity is stark and brings into sharp relief the attitude of the current WA government.

### APLA Membership

Membership as at 30 November 1996	
NSW	219
Queensland	176
Victoria	91
SA	48
WA	26
NT	9
ACT	9
Tasmania	3
International	27
TOTAL	<u>608</u>