£500 million paid for "vibration white finger"

Labour's compensation deal for British miners not all that it appears

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The Labour government is expected to pay up to £2 billion in compensation to about 140,000 former coal miners suffering from illnesses caused by their years working down Britain's pits.

An estimated 40,000 former miners suffering from the crippling condition vibration white finger (VWF)--sometimes known as dead man's fingers--have won up to £500 million in compensation in an out-of-court agreement reached with the government. The claim, launched eight years ago against British Coal, the state-owned enterprise, and the Conservative government that assumed responsibility for its liabilities after privatisation, resulted in the longest-running industrial injury action ever heard in the High Court. It is the biggest industrial compensation deal ever made.

A further 100,000 miners whose lives have been made a misery by the effects of bronchitis and emphysema are likely to get about £1.5 billion in a separate award to be announced shortly.

VWF is a condition triggered by the prolonged use of vibrating tools. It can damage blood vessels, reducing blood supply, and also the nerves in the fingers, causing permanent loss of strength and sensation in the fingers. The bones and muscles may also become damaged. Sufferers lose their flexibility and strength of grip. Cold temperatures usually set off symptoms of VWF, so even hobbies such as swimming, gardening and angling are impossible. An attack starts with the fingers becoming white and causes numbness, or pins and needles. The whiteness changes to a deep red flush that is excruciatingly painful.

The National Union of Mineworkers (NUM) greeted the deal as settling a very longstanding grievance. The Labour government described it as "a welcome and fair solution". It also represents a big cash injection into the devastated mining communities, dwarfing the £350 million regeneration programme announced before Christmas.

As Hilda Palmer of the Greater Manchester Hazard Centre, an organisation concerned with workplace accidents, explained to the *World Socialist Web Site*: "It is important to go into it. It's not simply 'Oh how wonderful'. It raises a whole number if issues. Lives have been wrecked. They can't pick things up. They can't do things they used to do."

After nearly eight years of procrastination and foot-dragging by the government, the first claim for VWF came to court in September 1997. The judge ruled in favour of the miners and laid the onus on British Coal, the employers, for not taking preventative action to ensure employees did not suffer VWF since 1975. It found British Coal negligent in failing to protect its employees.

This was a landmark decision. Compensation was awarded for physical injury and loss of amenity and employment. The ruling had implications not just for the coal industry, but all industries where the use of pneumatic and percussive tools is common because the damages awarded were much larger than the average previously paid by employers. The Labour government appealed the decision in an attempt to reduce the compensation, but the ruling was upheld in July 1998.

That is why, having lost two cases, the government made an out-of-court settlement in order to avoid a further ruling that would have clarified the legal issues, set a precedent and, in all likelihood, have awarded much higher compensation to the miners. The National

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Union of Mineworkers, by accepting the settlement, has colluded with the government to protect not only the former British Coal but also all other employers using vibrating equipment.

The compensation means that, typically, a 54-year-old man with a moderate disability could receive £5,000. A young man under 45, but suffering severe disability, could receive up to £18,000. Such a payment, however, means the loss of entitlement to means tested benefits. An average compensation is likely to be around £6,000, less than four months wages for an industrial worker.

Compensation for bronchitis and emphysema has dragged on even longer, despite court rulings that found British Coal negligent in failing to take reasonable steps to minimise coal dust, which had been found to trigger these diseases. Five years ago a leak of internal government correspondence revealed that discussions took place between ministers and officials about delaying the registration of bronchitis and emphysema as an industrial injury in order to save money, as many ex-miners who may have qualified died.

The government's announcement that it will pay out £1.5 billion for these respiratory diseases means that the average payment to those miners still alive will be a measly £10,000 to £15,000 per miner.

This may be the last hurrah for industrial injury compensation. Even this limited victory for the miners was only possible because they received Legal Aid. The government is proposing to abolish Legal Aid for civil cases and replace it with "conditional fee" arrangements, so-called "no win, no fee". As the president of the Law Society explained, the cost of medical and technical evidence alone in the miners' case would have ruled out a conditional fee arrangement. "Without Legal Aid, this case may never have come to court at all. The miners suffering from lung disease as a result of their former employers' negligence would have had to live without compensation."

Another significant aspect of the compensation deal is that its size dwarfs the proceeds from privatising British Coal, which was sold at a bargain basement price to R J Budge Mining. While RJB got the coal industry with a clean balance sheet, the government retained the debts and all the liabilities for ill health, subsidence and environmental damage. But this, in turn, raises questions as to how this claim is to be paid.

Some ex-miners are under no illusions. They believe it will be the miners themselves who will pay. When the miners won the first test case, it was mooted that the government would use the income stream it gets from the miners' pension fund to pay it.

Roland Birtles is a miner who was made redundant in the early 1970s who is part of a group campaigning for proper pensions for former British Coal employees. He explained to the *World Socialist Web Site*, "The government will use the pension fund built up through years of miners' contributions. Miners like myself, who were made redundant after 22 years in the pits, are only getting £1 a week from the pension fund. I know others who are getting even less. It's worth £11 billion to 12 billion now and has generated a £4 billion surplus since 1987. The Exchequer gets half the surplus every year. That's about £120 million a year.

"In 1994, a proposed basic pension of £10 a week was rejected because it would have cost the state £200 million of the £400 million surplus that it was allowed to remove at that valuation, 10 percent of what is now on offer.

"I have campaigned for years to get this injustice put right. The Labour government is just the same as the other lot. They've no sense of decency. They are withholding money from the miners that was quite clearly designated and accumulated for pensions. It means that indirectly the miners will be funding the government's supposed generosity."

Roland Birtles group can be contacted at http://www.pylon.u-net.com

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