



Rep. Hawk Fu

HB-355

Workers Compensation
Revisions



THE PROBLEM



When an
injury
happens at
work ...





Key Questions

- Who pays and how much?
- Under what conditions (when)?
- How allocate fault?

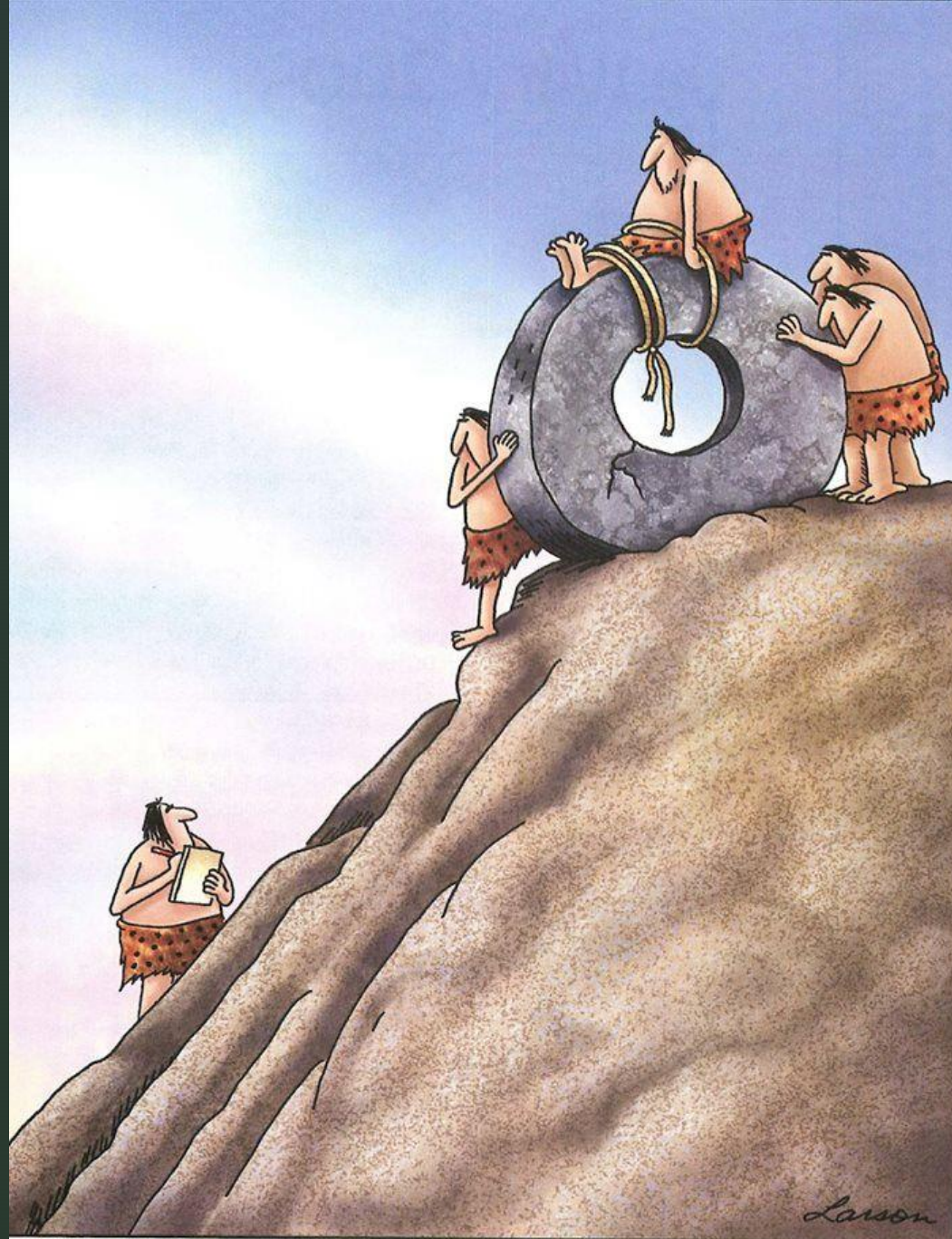
Traditional System (Common Law Negligence)

Pros

- Fact specific
- Capable of allocating fault proportionately
- “Full compensation” possible (at least in theory), including for pain and suffering

Cons

- Expensive
- Time consuming
- Employee bears all of the upfront burdens
- Uneven payout for similar injuries; windfalls and shortfalls
- Can bankrupt an employer (no recovery or limited recovery)



Early experiments in transportation

Workers Compensation – “The Grand Bargain”

Pros

- More even and predictable costs for employers
- More predictable payouts for employees
- Less time consuming
- Employee care covered up front
- Similar injuries treated in a similar manner

Cons

- No fault
- Fact-finding limited to nature and extent of injury
- No compensation for pain and suffering

Current Law

- Essentially allows employees—but only employees—to have it both ways in some cases.
- Medical costs paid.
- Guaranteed compensation.
- Swing for the fences with litigation to see if the employee can do better.
- Can see vastly different outcomes for the same injury.
- Enjoy the benefit of the Grand Bargain without giving anything meaningful up (hint: no longer a "bargain").