AN ASSESSMENT OF THE WORKING MECHANISM OF EMPLOYEES STATE INSURANCE CORPORATION

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ABSTRACT:

Employees' State Insurance Scheme of India is an integrated social security scheme tailored to provide social protection to workers and their dependants, in the organised sector, in contingencies, such as, sickness, maternity and death or disablement due to an employment injury or occupational hazard. The Employees' State Insurance Act, 1948 (ESI Act) provides for health care and cash benefit payments in the case of sickness, maternity and employment injury. The Act applies to all non-seasonal factories run with power and employing 10 or more persons and to those factories which run without power and employing 20 or more persons. The appropriate Government may after notification in the Official Gazette, extend the provision of the Act to any other establishment or class of establishments, industrial, commercial, agriculture or otherwise. Despite all the endeavours made by the Corporation for the effective functioning of the ESI Scheme in the country, public discernment of the Corporation has not been very positive. They felt that the Corporation has not given any regard for the quality of services and benefits provided to the insured persons and employers. Further, no adequate steps are being taken to improve the awareness of the Scheme among the insured persons and employers. Therefore, this paper analyses some of the key issues in the working of the ESIC and the extent to which they address the question of social protection in the country.

<u>Keywords</u>: Social Security, Employee State Insurance Corporation (ESIC), Insured persons, Functioning, Dependents, Factories, Establishments.

INTRODUCTION

Social Security is as old a concept as Society itself. Slowly, the changing conditions of life are affected by the changes in technologies, new experiences and life styles in post industrialization era which led to the creation of new demands of social legislations for providing foolproof social protection to citizens in general and industrial workers in particular. The continued and ever increasing deployment of a huge workforce has added to our responsibilities and obligations towards this vital segment of society.

Employees' State Insurance Corporation (ESIC) came into existence to ensure social security amongst the working class people in the organised sector. The scheme was launched on February 24, 1952 by the then Prime Minister of India, Pt. Jawaharlal Nehru, who also became the first insured person under the scheme. Since then in its long journey of Seventy years it has emerged as a unique multidimensional health insurance scheme, based on the principles of 'pooling of risks and resources', catering to the needs of the covered workers in the hours of need by providing them full medical benefits. The Employees' State Insurance Act which was passed by the Constituent Assembly in April 1948 was, in fact, the first social legislation adopted by the country after independence. This is one of a social security legislation which provides medical care and cash benefits to workers in the contingencies of sickness, maternity, disablement and death due to employment injury to workers.

The scheme today is a national phenomenon and one of the few largest social security programmes in the world. It is a scheme in which the workers contribute according to their capacity and derive benefits as per their needs.

Coverage of the ESI Scheme

According to the notification issued by the appropriate Government (Central/State) concerned under Section 1(5) of the Act, the following establishments employing 10 or more persons attracts ESI coverage.

- 1. Shops
- 2. Hotels or restaurants not having any manufacturing activity, but only engaged in 'sales'.
- 3. Cinemas including preview theatres;
- 4. Road Motor Transport Establishments;

- 5. New s paper establishments. (that is not covered as factory under Sec.2(12));
- 6. Private Educational Institutions (those run by individuals, trustees, societies or other organizations and Medical Institutions (including Corporate, Joint Sector, trust, charitable, and private ownership hospitals, nursing homes, diagnostic centres, pathological labs).

In some states coverage is for 20 or more employees for wages. A few State Governments have not extended scheme to Medical & Educational Institutions.

The Employees' State Insurance (ESI) Benefits

As per the ESI Act, the ESI Corporation is providing the following social security benefits to the insured persons and their dependents under the Employees' State Insurance Scheme.

Medical Benefit

Medical benefit includes the medical care package (free of cost) consisting of out-patient treatment, in-patient treatment, specialist consultation, X-ray and laboratory investigations, supply of drugs, dressings, artificial limbs, aids and appliances, health improvement services. An insured person and his/ her dependents become entitled to medical care from the date he enters the insurable employment and the entitlement continues as long as the insured person is in insurable employment or is qualified to claim sickness, maternity or disablement benefit.

Sickness Benefit

Sickness benefit represents periodical payments (in cash) made to an insured person during the period of certified sickness. To qualify for this benefit, contributions should have been paid for at least half the number of days in the relevant contribution period. The maximum duration of availing sickness benefit is 91 days in two consecutive benefit periods.

Maternity Benefit

Maternity benefit implies periodical payment to an insured woman in case of confinement or mis-carriage or sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage, certified by a duly appointed medical officer or mid-wife. For entitlement to maternity benefit, the insured woman should have contributed for not less than eighty days in the immediately preceding two consecutive contribution periods corresponding to the benefits period in which the confinement occurs or it is expected to occur. The daily rate of benefit is double the standard sickness benefit rate.

Disablement or Employment Injury Benefit

Disablement or employment injury benefit implies payment to an insured person suffering from disablement as a result of an employment injury sustained as an employee if he is certified to be eligible for such payment by an authority specified in this behalf. Disablement may be temporary or permanent.

Dependents' Benefit

If an insured person dies as a result of an employment injury or occupational disease, his dependents that are entitled to compensation under the ESI Act, shall be entitled to periodical payments referred to as dependents' benefit. The widow receives monthly pension for life or until re-marriage, at a fixed rate equivalent to 3/5th of the disablement rate and each dependent child is paid an amount equivalent to 2/5th thereof until he/she attains 18 years of age, provided that, in case of infirmity, the benefit continues to be paid till the infirmities last.

Other Benefits

Besides the above main benefits, the Corporation also provides some other benefits to the insured persons or their dependents. Other benefits include the funeral expenses on death of insured person subject to a maximum of Rs.2500, vocational rehabilitation in case of disabled insured persons under 45 years of age with 40 per cent or more disablement, free supply of aids and appliances such as crutches, wheelchairs, dentures, spectacles and other such physical aids and preventive health care services such as immunisation, HIV/ AIDS detection etc.

Administrative Machinery of the ESI Corporation

1. Inspectorates

In order to ensure compliance of the provisions of the ESI Act, as amended from time to time, inspection of factories and establishments has become one of the most important responsibilities of the Corporation. Section 45(1) empowers the Corporation to appoint such persons as inspectors, as it thinks fit, for the purposes of the Act, within such local limits as it may assign to them. Inspection divisions have been set up with a view to monitor the implementation and enforcement of various provisions in factories and establishments.

2. Revenue Recovery Machinery

The ESI Scheme is mainly financed by the ESI contribution from the employers and the employees covered under the Act. The principal employer is responsible for depositing the employees' and employers' contribution at 1.75 per cent and 4.75 per cent of the wages respectively in respect of employees drawing wages up to the prescribed limit (Sec.39). The present wage ceiling for coverage of employees is Rs. 21000 per month. Employees earning less than Rs.50 a day are exempted from payment of contribution. The employers' share of contribution is, however, payable. Even though the employer is under statutory obligation to deposit the contribution within the due date, some of the employers are committing default. Such dues are recoverable as arrears of land revenue. Earlier the ESI dues were being recovered by the State revenue authorities on the basis of the recovery certificates issued by the Corporation. In order to accelerate the pace of recovery, new provisions under section 45-C to 45-I were added in the ESI Act in 1989, enabling the Corporation to set up its own Revenue Recovery Machinery. Accordingly, the Corporation's Recovery Machinery came into existence in phases from January 1992 onwards in all regions. A Recovery Cell was also set up at the headquarters office to monitor the recovery of ESI dues. At the regional level, the Revenue Recovery Machinery consists of the Recovery Officer and the Revenue Recovery Inspectors.

3. Employees' Insurance (EI) Courts

Where a dispute arises under the provisions of the ESI Act as amended from time to time, the matter in the dispute is decided by EI Court constituted under Section 74 of the Act and not by a civil court. An appeal shall lie to the High Court from an order of an EI Court if it involves a substantial question of law. The State Government shall, by notification in the Official Gazette, constitute an EI Court for such local area as may be specified in the notification. The Court shall consist of such number of Judges as the State Government may think fit. The State Government may appoint the same Court for two or more local areas or two or more Courts for the same local area. Where more than one Court has been appointed for the same local area, the State Government may by general or special order regulate the distribution of business between them.

4. Grievances Redress Cell

The ESI Corporation is making the redress of the grievances and complaints of the insured persons and employers covered under the ESI Scheme through the Grievances Redress Cell. The Corporation has also set up an elaborate system at various levels for speedy redress of grievances and complaints. Managers in charge of branch offices, insurance medical officers in charge of dispensaries and medical superintendents in charge of hospitals are responsible for the redress of grievances and complaints at the grassroots level. At the regional level, Regional Director and Public Grievance Officer are responsible for the redress of grievances and complaints. At the Corporate level, a Director is appointed for the purpose.

Contribution:

Contribution is the amount payable to the Corporation by the principal employer in respect of an employee and comprises the amount payable by the employee and the employer. The scheme is primarily funded by contribution raised from insured employees and their employers in the implemented areas as a small but specified percentage of wages payable to such employees.

The rate of contribution as of now is:-

Employees' contribution-1.75 percent of the wages Employers' contribution-4.75 percent of the wages Total-6.50 percent of the wages

REVIEW OF LITERATURE

The World over there is a growing interest in the area of social security. In India, many committees and study groups have conducted studies on the existing social security schemes, particularly on the Employees' State Insurance Scheme. These committees and study groups have clearly indicated that social security is the sine qua non of the economic system. A review of such attempts will be apt at this juncture. Today, Social insurance programme are a global phenomenon. In the post war era, country after country has realized that the industrial health cannot be delinked from a socially conductive and protective work environment for its workforce. There are many contributions made by previous authors, though it is impossible to discuss all of them. Thus we are focussing on the significant contributions made in this area.

1. The Prime Minister Vajpayee A.B. (2002), on the precious occasion of Golden Jubilee Celebration of ESIC he said that the industrial scene has changed dramatically, however what has remained unchanged is the government's commitment to ensure social security for workers. He was inaugurating a seminar on evolving a national policy on social security. ESIS should endeavour for providing social security umbrella to the poorest of the poor workers and people in the unorganized sectors for achievement of national goal set by the Mahatma Gandhi.

- 2. Mukundan C. B. (2005), in his Article, stated that ESI Scheme primarily designed to promote social security and medical treatment of employees and their dependents, unfortunately, now runs counter to the envisaged goals. Millions of employees and thousands of employers have been the victims of this malevolent machinery, which shows menacing signs of extending its evil grip. Employees are driven to ESI hospitals by utter helplessness, sometimes, to secure medical certificates, but never to seek treatment, which is, in fact, highly risky. These hospitals offer no effective medical service or medicines; on the other hand, constitutes a threat to lives of the patients. The whole system is corrupt to the core. He concluded the Article by stating that it is high time that the Government and the trade unions should seriously think whether the ESI scheme is to be implemented compulsorily ignoring the dissatisfaction of the employees and the employers in the working of the ESI Scheme.
- 3. Kharge Mallikarjun (2010), Former Labour Minister GOI, ESIC was started as a Social Security Organisation for the workforce in the low income group of the country by the great visionary and our first Prime Minister, Pandit Jawaharlal Nehru on 24th February, 1952. To suit with the changing times and rapid growth of industrialization in the country, based on the recommendations of ESIC and suggestions of the Standing Committee of Parliament, comprehensive amendments have been carried out in the ESI Act vide ESI (Amendment) Act, 2010 which came into force from 1st June, 2010 such as Facilitating coverage of smaller factories employing 10 or more persons, Enhancing age limit of dependent children for eligibility to dependants benefit from 18 years to 25 years etc.
- 4. Satpathy I, Patnaik B.C.M & Dev Padma (2011) The Employees' State Insurance Scheme is an integrated multi dimensional Health Insurance and Social Security Scheme. It is one of the most effective and sustainable social measures available to the workmen employed in industrial and commercial establishments of varying sizes and nature. It provides comprehensive full medical care and reasonable economic assistance to the beneficiaries in contingencies like hazards of sickness, maternity, disablement and death due to employment injury. In the present paper, an attempt to understand the ground reality of the role of ESI in the study area has been made. Government spends lot of money in this direction and how far the benefits are being reached to the beneficiaries of the scheme is the objective of the paper. For this purpose 14 variables were identified after the pilot study and perception score method was used for the better understanding of the issues related to the ESI.
- 5. Modi Narendra, Hon'ble Prime Minister (2015) launched a series of Health Reforms initiatives of ESIC at Vigyan Bhawan, New Delhi on the inauguration of 46th Indian Labour Conference. Health Reforms Agenda of ESIC includes, Online availability of Electronic Health Record of ESI Beneficiaries (Insured Persons and their family members); Abhiyan Indradhanush: Ensuring the change of bed sheet according to VIBGYOR pattern during the week i.e. to be changed every day; Medical Helpline No. 1800 11 3839 for emergency and seeking guidance from casualty/emergency of ESIC Hospitals and Special OPD for Sr. Citizens and differently-able persons in ESIC hospitals. These Reforms are part of a series of "2nd Generation Reforms Agenda" named as 'ESIC-2.0'.
- 6. **Dr. Maiya** (2016) in his study —"Nurses' perception towards ESI scheme": A study with reference to selected hospitals in Udupi district showed that there was no significant association between level of satisfaction and monthly family income, there is also no association between level of satisfaction and other demographic variables as age, gender, religion, dependent members, and awareness about ESI. Hence, this study reveals that level of satisfaction is independent of selected demographic variables and monthly family income.
- 7. **Deblina Mitra** (2017) in her study- "Effectiveness of Medical Benefits under ESI Scheme: A Study on the Employees of Organised Sector in Kolkata" analysed that Medical benefit scheme of ESIC of India provides a full comprehensive medical care to the insured persons and their families. On the basis of study some suggestions like enhancement of the awareness about the ESI Scheme among the insured persons and employers, improvement in the quality of services in ESI hospitals and dispensaries, simplifying the formalities to be followed for claiming benefits, etc, can be extended to create a cordial atmosphere and smooth relationship between enterprises, ESI Corporation and insured persons.
- 8. Divya M., Dr. B Vijayachandran Pillai conducted a study on "An Assessment of Awareness and Satisfaction on Employee State Insurance Scheme in the Service Sector in Kerala". For this purpose, 90 beneficiary employees are selected by employing simple Random Method as sample for the study, 30 respondents each from each of the three selected establishments namely shops, educational institutions and financing companies. A structured interview schedule was used for the data collection. The findings of the study show that the beneficiaries of educational institutions are more aware about ESI scheme than other two classes.

FUNCTIONS AND POWERS OF THE EMPLOYEE STATE CORPORATION

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The Corporation is primarily concerned with policy formulation and effective implementation of various provisions of the ESI. Act. For this it has the following functions and the powers:

- 1. The Corporation may promote measures for the improvement of health and welfare of the insured persons, for the rehabilitation and re employment of insured persons who have been disabled or injured, and may incur for these purposes expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government. This power has been given to the Corporation under Section 19 to step up the benefits for the insured persons. This is very important in today's context as the vital problem of the persons injured or disabled by accident or occupational disease is not compensation, but the rehabilitation and the re-employment.
- 2. To extend medical benefit to the families of insured persons. To settle disputes arising between Corporation and State Government and the proportionate share of the cost of medical benefits which is proposed to be referred to arbitration. The Corporation shall prepare budget estimates showing the probable receipts and expenditure for the following year. The budget shall be submitted to the Central Government.
- 3. To make any proposal to set up hospitals and their maintenance by the Corporation itself in agreement with the State Government. To make any proposal to grant exemption from one or more provisions by the Act by the State Government. The Corporation shall submit correct accounts of the income and expenditure in such form and in such manner as may be prescribed by the Central Government.
- 4. Section 97 empowers the Corporation to make regulations consistent with the provisions of ESI. Act. There are various matters on which such regulations can be framed, but important ones arising among them are as follows:
- a. Time, place and the procedure to be followed for the meetings of the Corporation, Standing Committee and Medical Benefit Council:
- b. Details of the payment of contributions certification of sickness, eligibility for cash benefits, communication of any payment and the form of claims:
- c. The circumstances in which an employee in receipt of disablement benefit may be dismissed, discharged reduced or otherwise provided;
- d. Certification and notice of pregnancy;
- e. Relaxation of conditions;
- f. Returns to be submitted and records to be maintained by various parties;
- g. Duties and powers of inspectors and other officers and servants of the Corporation;
- h. Method of recruitment and the service conditions of the employees of Corporation;
- i. Remission of contributions to the Corporation;
- j. The constitution of Medical Boards and the Medical Appeal Tribunals;
- k. Penalties for breach of regulations;
- 1. Any other matter relevant under the Act.
- m. The Corporation shall receive contribution from the employers, shall determine contribution in certain cases and also ensure the regular and effective recovery.

ROLE OF ESIC IN SERVICING EMPLOYERS

- To develop a responsive, purposive and productive relationship with employers.
- To seek their active involvement in the improvement of the scheme as a confidence building measure.
- To provide them necessary guidance in fulfilling their lawful obligations under the ESI Act.
- To make available to them requisite forms and Performa as may be required by them from time to time.
- To ensure that any lax medical certification on part of ESIC does not bring down the productivity of a factory or establishment.
- To ensure that in case of any difficulty, doubt or misunderstanding, employer is given a chance to be heard at an appropriate level.
- To ensure that all correspondence emanating from the employer is responded to, timely and objectively.
- To ensure that an employer is not being harassed by any official of the Corporation authorised to inspect the premises or the records.
- To ensure that any grievances received from employers are looked into promptly and pointedly for speedy redressed.

ROLE OF ESIC IN DELIVERY OF BENEFITS

The benefits are made available within the given time frame to insured persons and beneficiaries. No harassment is caused to the beneficiaries across the counter at the grass root level by way of word or deed. All requisite information, procedural guidance etc. is made available to the beneficiaries for claiming benefits. All types of Forms are made available to the beneficiaries free of cost as may be required by them for filing claims. No beneficiary is exploited at any level in any way in the process of delivery of benefits.

Problems in the Working Machinery of ESIC:

- 1. The functioning of advisory bodies of the ESI Corporation is not satisfactory. These bodies do not conduct meetings frequently.
- 2. There is no timely constitution of the Regional Boards and the Local Committees. The Regional Boards and Local Committees are not constituted in all the regions and centres where the ESI Scheme is implemented.
- 3. There is no adequate representation of the employees and employers in the various advisory boards of the Corporation except the Local Committees.
- 4. Majority of the employers were not satisfied with the working of the Inspectorate due to the indifferent or hostile attitude of the Inspectorate personnel.
- 5. The Inspectorate of the Corporation could not achieve the targeted number of inspections.
- 6. The Revenue Recovery Machinery of the Corporation could not recover even half of the total recoverable arrears in all the years under study both at the national and the regional levels.
- 7. The Employees Insurance (EI) Courts and The Grievances Redress Cell of the Corporation failed to dispose of the cases/complaints filed by the insured persons and employers in the year itself. A large number of cases were pending in EI Courts.
- 8. The Corporation has not constituted Regional Boards in all the regions where the ESI Scheme is implemented. Similarly, Local Committees have not been constituted in all the centres where the ESI Scheme is implemented. There was delay in the constitution of Regional Boards and Local Committees.

The Way Out from the problems:

The ESI Corporation should also take necessary decision in the matters of the publicity of the Scheme through distribution of pamphlets in regional languages which can easily be known to workers of different regions. The whole structure of the Scheme and its utility should however be cleared to them.

Efforts should be made to implement the ESI Scheme in areas where the implementation of the scheme has yet not taken place m the country.

It is found from the study that too much formality prevents a good number of insured persons from availing the various cash benefits. Therefore, the corporation has to relax the conditions and simplify the formalities for claiming the cash benefits so as to enable the insured persons to avail the benefits under the ESI Scheme.

The insured persons are not satisfied with the services of the administrative staff of the corporation for claiming the benefits except the sickness benefit. Therefore, the corporation should take the necessary steps to avoid the delay. Proper guidance should be given to the insured persons about the formalities for claiming the benefits. A sort of more human approach is expected from the administrative staff.

To save time and cost, a close monitoring should be adopted by a special team deputed by the Corporation during the construction work of ESI Hospitals and Dispensaries etc. in the concerned areas of construction work.

The attitudinal orientations of the personnel of the Inspectors and Revenue Recovery Machinery towards the employers need a marked change. They can be more sympathetic and courteous towards the employers. Their positive attitude and proper understanding will go a long way in the successful implementation of the ESI scheme.

The corporation may set up grievances redress cells at the lower levels by giving the required authority for the disposal of grievances/complaints. This will help the speedy redress of grievances/ complaints of the insured persons and employers.

For better performance of the ESI Scheme, it is essential that Regional Board and local committees are to be constituted timely and in all the regions and centers where the ESI Scheme is implemented. Meetings at the regular intervals are also desirable.

Out of the total work force of about 459 millions in India, 26 Million workers are in the organized sector, 18 Million in public sector and 8 million in private sector) and the rest are in the unorganized sector. The ESI Act covers workers in the organized sector only. At present about 12.07 Million workers (i.e. 46.4% of organized sector) are covered under the Employees' State Insurance Act, which represents only about 2.63% of the total work force in the country. The remaining workers in the unorganized sector to which the ESI Act does not apply remain outside the social security umbrella. Wage and income support in times of drought, lean seasons and during periods of unemployment are the main things which are required by the workers in the agricultural sector. In addition, they also require medical care. The level of their earning is not fixed and there is no fixed employer-employee relationship with wage records etc., which makes recovery of contribution from such workers a challenge. As the ESI Scheme framed under the ESI Act, 1948 in its present shape cannot be extended to workers in the unorganized sector in its present form. The Govt. of India, Ministry of Labour & Employment has introduced a Scheme called "Rashtriya Swasthya Bima Yojna" for providing social Security BPL (Below Poverty

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Line) workers in the unorganized sectors. The workers working in this sector have not been given much considerations and facilities in comparison of those working in organized Sector. However, the inclusion of workers other than organized sector to influence the Sectoral balance should be given more priorities under the ESI Scheme and an immediate action is needed to cover other sectors under the present scheme.

CONCLUSION:

The Employees' State Insurance Scheme, the first of its kind to be introduced anywhere in the country, took its birth in the old state of Bombay on February 24, 1952. Today majority of people in India finding difficult to make both ends meet, as such expenses for the health or an additional burden. It is in this situation the ESI comes to the rescue of such needy people. It plays a vital role in providing social security to its members and their families. At present the families of 125.69 lakh employees are covered under this scheme. In 2009 the beneficiaries numbered to 501.97 lakh. Thus in serves the low level income group to meet their additional expenditure on health.

The major problem is the operational deficiency of the ESI. This includes various factors like, distance, lack of awareness of various schemes of ESI, delay in getting payment, difficult procedure for claiming benefits, etc. For this scheme to be a success, a social movement is needed to create awareness among the people in the rural and semi-urban area specially. Illiteracy is also a major stumble block for the popularization of the scheme. Because of this, people are not able to understand their legitimate rights and this contributes to one of the reasons for the failure of any scheme implemented by the government. People should be aware about their rights so that those involved in the implementation of the scheme will be cautious before doing any undesirable things. Improvement of medical facilities is also important; in this regard more and more hospitals should be tied up with ESI. Mobile hospital concepts should also be introduced for the benefit of the people residing in rural areas. There should be combined effort both from the government and the public for the successful implementation of schemes related to ESI. More importantly the political will is needed among the political parties for the improvement and implementation of this programme.

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