



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Right To Compensation In India : A Study Of The Employees Compensation Act, 1923.

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Abstract

The Employees Compensation Act 1923 is a welfare legislation for the workers who suffer from any kind of injury and occupational disease which resulted in disablement or even death. As per the Provisions of this Act the employer is liable to pay compensation if injury arises in the course of employment . The Amount of Compensation depends upon the type of disability as it varies from category to category. In case of the death of the Employee, the claim refers to the dependents of the deceased worker. The Commissioner exercises the jurisdiction under this Act. Awareness of the rights of the employee provided by this Act must be highlighted by the employer as per the recent amendment. Judicial interpretations lead the act into a positive scenario.

Keywords:- Employee, compensation, judiciary, disablement, Claim.

Introduction

The growing complexity of Industry in India , with the increasing use of machinery and consequent danger to workmen, along with the poverty renders it recommended that the workers should be protected as far as possible from hardship arising on account of accidents at workplaces. The Employees Compensation Act, 1923 (ECA), originally enacted as the Workmen's Compensation Act, is a foundational social security legislation in India. The Indian Parliament enacted the Workmen's Compensation Act (WCA) in 1923 to ensure employee well-being, especially in the industrial segment. The Workmen Compensation Act 1923 stands as a landmark in the history of Indian labour laws. It establishes the right of employees to receive compensation for injuries, disabilities, or death arising from workplace accidents, irrespective of employer negligence. This act has established a framework for providing financial compensation to workers who suffer work-related injuries, occupational illnesses, or death in the course of their employment. With this act in place, it falls upon the employer to provide financial compensation to their employees as well as to the dependents in the unfortunate event of an accident or death at the workplace. The Applicability of the Act covers all employees, including those working in factories, mines, plantations, and other hazardous occupations. The Commissioner is an Authority under this Act to adjudicate claims and determine the amount of compensation to be paid to the injured worker or their dependents.

Over the period , the Employees Compensation Act of 1923 has undergone several amendments to keep up with changing times and to provide better protection to workers. It has been expanded to cover more categories of workers, and the compensation amounts have been revised to keep up with inflation. The rehabilitation and vocational training for injured workers to help them return to the workforce has also been added.

A Number of Judicial Interpretations given on the Employees Compensation Act over the years. The courts have played a significant role in shaping the application of the Act and determining the rights of the workmen.

Overall it outlines the structured approach to compensation and offers different levels of support based on the nature and severity of the incident.

Historical Context

The Workmen's Compensation Act 1923 is a legislation that provides compensation to workers who suffer injuries or disabilities while at work. The act was passed in India during the British colonial era and was modeled after similar legislation in the United Kingdom. It was modeled on European labor laws; it marked India's first systematic effort to codify employer liability for occupational hazards . Renamed in 2010 as the Employee Compensation Act to reflect gender neutrality, the Act has undergone amendments to expand coverage and adjust compensation thresholds.

The workers who suffered injuries or disabilities while at work had little or no legal recourse before the enactment of the Workmen's Compensation Act 1923,. They were often left to take care of themselves and their families, which led to widespread poverty and financial distress among the working class.

The act was a significant milestone in the history of workers' rights in India. It provided a legal framework for workers to seek compensation in case of work-related injuries or disabilities. This helped to improve the working conditions of laborers and provided them with a safety net in case of accidents.

The act has undergone several amendments since its enactment in 1923 to keep up with changing times and needs. These amendments have expanded the scope of the act to cover more workers and provide better compensation for injuries and disabilities.

Overall, the Workmen's Compensation Act 1923 remains a critical piece of legislation in India's labor laws. It has helped to protect the rights of workers and ensure fair compensation for their injuries and disabilities.

Objectives and Scope

The Employees Compensation Act aims to:

1. Provide financial relief to employees and dependents for work-related injuries or death.
2. Ensure prompt compensation without lengthy litigation.
3. Promote workplace safety by incentivizing employers to mitigate risks.

Coverage:

Section 2 (1) (dd) define the term employee as under-

"employee" means a person, who is-- (i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989 (24 of 1989), not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II; or

(ii) (a) a master, seaman or other members of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or

(iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or 2 in writing; **but does not include any person working in the capacity of a member of the Armed Forces of the Union**; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them;]

So According to the above mentioned definition It applies to railways, factories, plantations, construction, transport, and other sectors listed in Schedule II.

Exemption- It excludes casual workers, domestic servants, Members of Armed forces and employees covered under the Employees' State Insurance Act.

Key Provisions

1. Employer Liability (Section 3)

Employers are absolutely liable to pay compensation if:

- Injury/Occupational Disease/death occurs "in the course of employment" (e.g., during work hours or tasks).
- The accident arises "out of employment" (linked to workplace risks)²³.

Exceptions - The employer shall not be so liable-

(a) in respect of any injury which does not result in the total or partial disablement of the employee for a period exceeding three days;

(b) in respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to-

(i) the employee having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or

(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

2. Compensation Calculation (Section 4)

- **Death:** 50% of monthly wages × factor (based on age) **or** ₹1,20,000, whichever is higher.
- **Permanent Total Disablement:** 60% of monthly wages × factor **or** ₹1,20,000.
- **Temporary Disablement:** 25% of monthly wages, paid weekly during disablement.
- **Monthly Wage Ceiling:** ₹15,000 (revised in 2020 from ₹8,000).

3. Claims Process (Section 10)

- Employees/dependents must file claims within two years of the accident.
- Commissioners adjudicate disputes, ensuring minimal procedural formalities.

Theory of Notional Extension

The doctrine of notional extension, as outlined in Section 3 of the Employees Compensation Act, expands the scope of employer liability beyond the traditional boundaries of the physical workplace and conventional working hours.

This legal doctrine emphasizes that employers must compensate employees for injuries sustained in accidents that arise out of and in the course of employment. It includes injuries that occur not only directly at the workplace but also in circumstances connected to the job, such as during the commute or while performing employment-related tasks outside of standard work hours.

The primary purpose of this doctrine is to recognise and mitigate the risks associated with employment that might not be physically confined to the workplace but are nonetheless inherent to the job.

The law aims to ensure that workers receive fair compensation for work-related injuries, reflecting a more comprehensive understanding of employment risks. The notional extension is important for providing a safety net for employees who encounter dangers originating from their employment obligations, irrespective of the location or time of the incident.

Theory of Added Peril

The doctrine of added peril is a principle applied in Indian worker compensation cases. It acts as a defence for employers in situations where an employee gets injured. It essentially limits an employer's liability when an employee gets injured on the job. We understand this doctrine through below mentioned key points

- **Employer's Responsibility:** The Employees Compensation Act, 1923 generally requires employers to compensate workers for injuries arising out of and in the course of employment.
- **Added Peril:** This doctrine comes into play when an employee, while performing their job duties, engages in an activity that:
 - ❖ A) Is not part of their regular duties.
 - ❖ B) Involves a significantly higher risk of injury than their normal tasks.
- **Employer Not Liable:** If an employee gets injured due to this added peril, the employer may not be responsible for providing compensation under the aforementioned acts. The rationale is that the injury wasn't caused by a risk inherent to the employee's regular job.

Recent Amendments

1. 2017 Amendment:

Through the Employees Compensation Amendment Act, 2017 Section 17A was inserted into the principal Act. According to this Section, Employers must inform employees of their rights under the Act in writing/electronically, in a language they understand.

2. 2020 Revision:

The Central government has changed the amount of wages to be considered for calculation of compensation to workers under the Employee's Compensation Act 1923 vide notification S.O.71 (E) dated January 3, 2020.

- Increased wage ceiling to ₹15,000 from 8,000 for compensation calculations, enhancing payouts.

Judicial Interpretation

The Workmen Compensation Act 1923 has undergone several interpretations by the judiciary over the years. The courts have played a significant role in shaping the application of the Act and determining the rights of the workmen.

In the case of *Indian Iron and Steel Co. Ltd. v. Durgaprasad*, the Supreme Court held that the Act is a beneficial legislation and should be interpreted liberally in favor of the workmen. The court observed that the Act should be interpreted in a manner that advances the objective of providing compensation to the workmen for injuries suffered during employment.

In another case, *Parimal Chandra Raha v. Life Insurance Corporation of India* AIR 1995 SC 229, the Supreme Court held that the compensation payable under the Act should be based on the earning capacity of the workman. The court observed that the compensation should not be based on the actual wages earned by the workman at the time of the accident but should be based on what the workman was capable of earning had he not suffered the injury.

The courts have also clarified the scope of the Act. In the case of *Indian Hume Pipe Co. Ltd. v. Its Workmen* (1968), the Supreme Court held that the Act applies only to accidents arising out of and in the course of employment. The court observed that the injury must have a nexus with the employment and must arise out of the work being performed by the workman.

Conclusion

The Employees Compensation Act, 1923, remains a cornerstone of India's labor welfare framework, balancing employer liability with employee protection. While amendments have modernized its provisions, incorporations of different theories gave benefits to both the parties. Strengthening enforcement mechanisms and periodic revisions to reflect inflation and changing work environments are essential to uphold its original intent. The judiciary has played a crucial role in interpreting the Employees Compensation Act 1923. The courts have emphasized the need to interpret the Act liberally in favor of the workmen and have clarified the scope of the Act. The interpretations provided by the judiciary have helped in protecting the rights of the workmen and ensuring that they receive fair compensation for injuries suffered during employment.

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