

Workmen Compensation Act, 1923



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Objectives

- **The Act, aims to provide workmen and/or their dependents some relief or compensation in case of accidents arising out of and in the course of employment and causing either death or disablement (partial or total) of workmen.**

Scope and Coverage

- **The Act extends to the whole of India.**
- **It applies to workmen employed in factories, mines, plantations, transport establishments, construction work, railways, ships, circuses, & other hazardous occupations & employments specified in Schedule II to the Act.**
- **The coverage of this act is also to cooks employed in hotels and restaurants.**
- **The Act does not apply to members of Armed Forces of the Union & workmen who are covered by the ESI Act, 1948.**

Definitions[Sec.2]

- **Commissioner**
- **Dependant**
- **Employer**
- **Disablement**
- **Wages**
- **Workman**

Commissioner

- **Sec.2(1)(b)**
- **Commissioner means a Commissioner for Workmen's Compensation appointed under Sec.20.**

Dependant[Sec.2(1)(d)]

- **Dependant means any of the following relatives of a deceased workman, namely:**
 - (I) a widow, a minor legitimate or adopted son and unmarried legitimate or adopted daughter, or a widowed mother.
 - (II) if wholly dependant on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm.
 - (III) And any of the following were wholly or partly dependent on the workman at the time of his death—
 - a widower, a parent other than a widowed mother, a minor illegitimate son, a unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married & a minor or if widowed & minor, a minor brother or an unmarried sister or a widowed sister if a minor, a widowed daughter-in-law, a minor child of pre-deceased son & daughter where no parent of the child is alive & a paternal grandparent if not the parent of the workman is alive.

Employer[Sec.2(1)(e)]

"employer" includes

- **Any body of persons whether incorporated or not;**
- **Any managing agent of an employer; and**
- **The legal representative of a deceased employer.**

Disablement

- **Disablement means loss of capacity to work or to move. Disablement of workman may result in loss or reduction of his earning capacity. In the later case, he is not able to earn as much as he used to earn before his disablement.**
- **Disablement may be (1) partial, or (2) total.**
- **Further it may be (i) permanent, or (i) temporary.**

Partial disablement-2.1(g)

This means any disablement as reduces the earning capacity of a workman as a result of some accident. It may be temporary or permanent.

- **Temporary partial disablement** means any disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement.
- **Permanent partial disablement** is one which reduces the earning capacity of a workman in every employment which he was capable of undertaking at that time of injury.

Total disablement-2.1(I)

- **‘Total disablement’ means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement**

Wages[Sec.2(1)(m)]

- **‘wages’ includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment.**

Workman[Sec.2(1)(n)]

- **‘workman’ means any person who is-**
- **(a) 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**
- **(b) a master, seaman or other member of the crew of a ship, etc**
- **It does not include a person whose employment is of casual nature.**



Rules Regarding Workmen's Compensation

Employer's Liabilities For Compensation[Sec.3]

An employer is liable to pay compensation to workman for-

- **1. Personal injury by accident-** An employer is liable to pay compensation to workman if personal injury is caused to him by accident arising out of & in the course of his employment.
- **2. Occupational diseases-** workers employed in certain occupations are exposed to certain diseases which are inherent in those occupation.

Employer is not Liable For Compensation

- (a) in respect of any injury which does not result in the total or partial disablement of the workman 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 workman having been at the time thereof under the influence of drink or drugs, or
- (ii) the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
- (iii) the willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen

Doctrine of Notional Extension:

- **The expression in the course of his employment', connotes not only actual work but also any other engagement natural and necessary thereto, reasonably extended both as regards work-hours and work-place. It refers to the time during which the employment continues. . However, this is subject to the theory of notional extension of the employer's premises so as to include an area which the workman passes and re-passes in going to and in leaving the actual place of work. There may be some reasonable extension in both time and place and a workman may be regarded as in the course of his employment even though he had not reached or had left his employer's premises. This is also called as the Doctrine of Notional Extension. The doctrine of notional extension could not be placed in a strait jacket; it was merely a matter of sound common sense as to when and where and to what extent this doctrine could be applied.**

Amount Of Compensation[Sec.4]

- **The amount of compensation payable to a workman depends on**
 - ❖ **the nature of injury caused by accident,**
 - ❖ **the monthly wages of the workman concerned, and**
 - ❖ **the relevant factor for working out lump sum equivalent of compensation amount as specified in Schedule IV.**
- **There is no distinction between an adult and a minor worker with respect to the amount of compensation.**

Compensation For Death

- **In case of death resulting from injury, the amount of compensation shall be equal 50% of the monthly wages of the deceased workman multiplied by the relevant factor.**
- **Or an amount of Rs 80,000/- whichever is more.**

Example:

- A workman is employed in a factory on a monthly wage of Rs 3000. While working he met with an accident and dies on oct 2000. His date of birth is July 18 , 1970. The amount of compensation payable to his dependent would be

$$\frac{50 * \text{monthly wages} * \text{Relevant factor of age } 30}{100}$$

Or 80,000 whichever is higher

$$\frac{50 * 3000 * 207.98}{100} = 3,11,970$$

Since Rs 311970 is more than 80000 the compensation payable to him shall be Rs 311,970

Compensation For Permanent Total Disablement

- In case of permanent total disablement resulting from the injury, the amount of compensation shall be 60% of the monthly wages of the injured workman multiplied by the relevant factor or Rs 90,000/- thousand whichever is more.**
- For the above example the compensation would be**

$$\frac{60 * 3000 * 207.98}{100} = 3,74,365$$

Since Rs 3,74364 is more than 90,000 the amount of compensation payable should be Rs 3, 74364

Compensation For Permanent Partial Disablement

- **Where permanent partial disablement occurs, the amount of compensation payable shall be as follows:**
 - ❖ **in case of an injury specified in part II of the schedule I, the amount of compensation shall be such percentage of the compensation which would have been payable is the percentage of loss of earning capacity caused by that injury.**
 - ❖ **in case of an injury not specified in schedule I, such percentage of the compensation is payable which is proportionate to the loss of earning capacity (as assessed by a qualified medical practitioner) permanently caused by the injury.**

Example:

- **A worker whose monthly wages is RS 3000 loses one eye AS A RESULT OF Injury caused to him on Nov 15, 1995. On Oct 1, 1995. He had completed 20 years of age. The amount of compensation payable to him would be**

$$\underline{40\% \text{ of } 60 * 3000 * 224 = 1,61,280}$$

100

Compensation For Temporary Disablement(Total or Partial)

- **If the temporary disablement, whether total or partial results from the injury, the amount of compensation shall be a half monthly payment of the sum equivalent to 25% of the monthly wages of the workman to be paid in accordance with the provisions.**
- **The half monthly payment shall be payable on the sixteenth day from the date of disablement**
- **In cases where such disablement lasts for a period of 28 days or more compensation is payable from the date of disablement**
- **In other cases After the expiry of a waiting period of three days from the date of disablement.**

Compensation to be paid when due & penalty for default[Sec.4A]

- **As per this section, compensation has to be paid as soon as it is due**
- **In case the employer does not accept the liability of paying the compensation, he is bound to make provisional payment to the extent of the liability he accepts. Such amount has to be deposited with the commissioner or paid to the workman. If he defaults, the commissioner may order:**
 - ❖ **the payment of the amount with interest at 12 % per year**
 - ❖ **if the default is to be unjustifiable then the commissioner may order payment of a further sum not exceeding 50% of the amount due, by way of penalty.**

Method of calculating monthly wages[Sec.4A]

- **The monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period.**
- **where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality.**
- **in other cases [including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b), the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.**

Distribution of Compensation[sec.8]

- **The compensation payable for death and**
- **The compensation payable to a woman or person of legal disability shall be through the commissioner only.**
- **Employer can make advance payment directly to dependents in case of death equivalent to three months salary of the deceased person.**
- **Employer is exonerated from his liability if he deposits the compensation amount with the commissioner within the stipulated time.**
- **The commissioner shall call all dependents of the deceased and determine the method for distribution of compensation among them.**
- **If no dependents are found then amount shall be refunded to the employer.**
- **On request by the employer the commissioner shall furnish the details of disbursement.**

Notice & Claim[Sec.10]

To claim the compensation:

- **The claimant shall give notice of accident to the employer or by entering in the notice book within the reasonable period.**
- **Every such notice shall give the name and address of the person injured, the cause of the injury and the date on which the accident happened and**
- **Submit the claim application to the commissioner within two years from the date of accident.**
- **In case of occupational disease the accident is deemed to have occurred on the first day of disease.**
- **Defect if any in the notice or not giving notice or delayed application will not bar the claim for compensation.**

Commissioners[Sec.20]

- **The State Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such area as may be specified in the notification.**
- **Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry**
- **Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).**

Appeals[Sec.30]

- **(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely :-**
- **(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;**
- **(aa) an order awarding interest or penalty under section 4A;**
- **(b) an order refusing to allow redemption of a half-monthly payment;**
- **(c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;**
- **(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12**
- **(2) The period of limitation for an appeal under this section shall be sixty days.**
- **(3) The provision of section 5 of the Limitation Act, 1963 (36 of 1963) shall be applicable to appeals under, this section.**



THANK YOU