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An Analytical Study on the Implementation of the Employee's Compensation Act: Challenges in Securing Timely Compensation and Suggested Reforms

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ABSTRACT

The Employees' Compensation Act, 1923 is one of India's earliest pieces of labour welfare legislation, aimed at providing financial assistance to employees who suffer injuries, occupational diseases, or death arising out of and in the course of employment. Although the Act establishes a legal framework for compensating affected workers and their dependants, its practical implementation continues to face several obstacles. Delays in claim processing, inadequate awareness among employees, procedural complexities, prolonged litigation, and non-compliance by employers often prevent workers from receiving compensation within a reasonable period. Such delays defeat the social welfare objective of the legislation and impose additional financial and emotional burdens on injured workers and their families. This research critically examines the effectiveness of the Employees' Compensation Act in ensuring timely compensation. It analyses the legal provisions governing compensation, the responsibilities of employers, the role of Commissioners, and the impact of judicial interpretation on the enforcement of workers' rights. The study further identifies the major administrative, legal, and practical challenges that hinder the efficient implementation of the Act. Particular attention is given to issues such as delayed reporting of accidents, disputes regarding employer liability, lack of digital infrastructure, and inadequate awareness among workers in the unorganised sector. The research also evaluates recent developments in labour legislation and proposes practical reforms to strengthen the existing compensation mechanism. These include simplification of claim procedures, adoption of technology for faster case management, stricter enforcement against defaulting employers, enhanced awareness programmes, and improved coordination between labour authorities and employers. The study concludes that timely compensation is not merely a statutory obligation but an essential element of social justice,

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and that effective implementation of the Act is necessary to safeguard the dignity, welfare, and economic security of employees in India.

Keywords: *Employees' Compensation Act, Labour Welfare, Workplace Injury, Compensation Claims, Employer Liability*

I. INTRODUCTION

A. Background of the study

The Employees' Compensation Act, 1923 was enacted, under its original title the Workmen's Compensation Act, 1923, to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, at a time when the common law of tort left an injured workman to prove negligence before recovering anything at all. The Workmen's Compensation (Amendment) Act, 2009 renamed the statute the Employees' Compensation Act, 1923, with effect from 18 January 2010,¹ but the underlying architecture (no-fault liability, computation of compensation on a schedule tied to wages and age, and adjudication by a specially appointed Commissioner) has survived largely intact for over a century. Section 3(1) of the Act fixes liability on the employer the moment personal injury is caused to an employee by accident arising out of and in the course of employment,² so that a workman need not establish fault, only a causal connection between the accident and the employment.

For decades the Act operated alongside the Employees' State Insurance Act, 1948, the latter being confined to factories and notified establishments, so that, as the 62nd Report of the Law Commission of India observed, "in the rest of the cases the Workmen's Compensation Act still holds the field".³ This position changed materially when, with effect from 21 November 2025, the Government of India brought into force the four consolidated Labour Codes (the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions Code, 2020), of which the Code on Social Security, 2020 subsumes the Employees' Compensation Act, 1923 along with eight other social-security enactments.⁴ The Central rules to operationalise the new Code were published in draft

¹ The Workmen's Compensation (Amendment) Act, 2009 (Act 45 of 2009), in force from 18 January 2010, which substituted "employee" for "workman" throughout the 1923 Act and renamed it the Employee's Compensation Act, 1923 (so spelt in s. 1(1) as amended; the form "Employees' Compensation Act" is in common use).

² The Employees' Compensation Act, 1923, s. 3(1).

³ LAW COMMISSION OF INDIA, SIXTY-SECOND REPORT ON THE WORKMEN'S COMPENSATION ACT, 1923 ¶ 1.11 (1974) (Chairman: Justice P.B. Gajendragadkar), *quoted in Daivshala v. Oriental Insurance Co. Ltd.*, 2025 INSC 904, ¶ 21 (July 29, 2025) (Manoj Misra & K.V. Viswanathan, JJ.).

⁴ Press Release, Ministry of Labour & Employment, Government of India (Nov. 21, 2025) (announcing the implementation of the Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 with effect from 21 November 2025); Ministry of Labour & Employment Notification S.O. 5319(E) (Nov. 21, 2025) (appointing 21 November 2025 for the commencement of, among others, ss. 1–14, 17–141 and 144–163 of the Code on Social Security, 2020

only on 30 December 2025 and finalised on 8 May 2026.⁵ In practice, claims arising before the transition continue to be processed under the 1923 Act, and claims arising after it under provisions of the Code that largely re-enact the 1923 Act's framework, so that its case law remains relevant. It is that framework, and the delay that has historically attended it, which this paper examines.

B. Statement of the problem

The Act's no-fault design was meant to make compensation swift and largely non-adversarial. In practice, a workman or the dependants of a deceased workman must still contend with delayed reporting of the accident, disputes over the existence of an employer-employee relationship, contested medical assessment of disability, and, even after a Commissioner has passed an award, resistance from insurers who prefer to litigate technical objections rather than release funds. The Supreme Court, as recently as October 2025, found it necessary to record its "anguish" at the practice of insurance companies filing appeals on technical pleas even where they did not deny their ultimate liability, precisely because such appeals delay compensation reaching workmen and their families.⁶ The problem this paper addresses, therefore, is not an absence of statutory protection but the gap between the promise of speedy, no-fault compensation and the lived experience of claimants.

C. Need for the study

A worker who is injured, or a family that has lost a breadwinner, typically has the least capacity to absorb delay: medical bills accumulate immediately, income stops, and litigation costs money the claimant does not have. A study that maps precisely where delay accumulates (at the stage of reporting, of adjudication, of appeal, or of execution) is a necessary precursor to any workable reform, particularly at a moment when the Act itself is being absorbed into a new statutory code whose implementing rules have only just been framed.

and items 1, 2 and 4 to 9 of s. 164(1), which repeal the Employees' Compensation Act, 1923 and seven other enactments); The Code on Social Security, 2020 (Act 36 of 2020), s. 164(1) (listing the Employees' Compensation Act, 1923 first among the nine enactments repealed) and s. 164(2)(a) (things done, and rules and notifications made, under the repealed enactments continue, so far as they are not contrary to the Code, until superseded).

⁵ Ministry of Labour & Employment Notification G.S.R. 935(E) (Dec. 30, 2025) (draft Code on Social Security (Central) Rules, 2025, published for objections within forty-five days); Ministry of Labour & Employment Notification G.S.R. 344(E) (May 8, 2026) (Social Security (Central) Rules, 2026, made in supersession of, among others, the Employee's Compensation Rules, 1924).

⁶ *Alok Kumar Ghosh v. New India Assurance Co. Ltd.*, 2025 INSC 1239, ¶ 19 (Oct. 9, 2025) (Manoj Misra & N. Kotiswar Singh, JJ.).

D. Objectives of the study

This study seeks: to examine the legal framework governing compensation for employment injury in India; to identify the principal causes of delay in the disposal and satisfaction of claims; to assess how courts have interpreted the Act's central provisions, particularly the phrase "arising out of and in the course of employment"; to study the practical difficulties faced by workers in the organised, unorganised, and gig or platform sectors; and to recommend feasible administrative and legislative reforms.

E. Research questions

The paper is organised around three questions. What are the principal legal, administrative and practical factors that delay the payment of compensation under the Act? How have courts balanced the Act's beneficial character against the procedural and evidentiary safeguards available to employers and insurers? What lessons, if any, can India draw from the administration of employment-injury schemes in other jurisdictions and under International Labour Organization standards?

F. Research methodology

The study is doctrinal and analytical. It relies on the text of the Employees' Compensation Act, 1923, the Employees' State Insurance Act, 1948, and the Code on Social Security, 2020; reported and recent unreported judgments of the Supreme Court and High Courts; the 62nd Report of the Law Commission of India; and government notifications and secondary commentary on the 2025 labour-law transition.

G. Scope and limitations

The study is confined to compensation for employment injury under Indian law, with comparative reference to the United Kingdom, Australia, and International Labour Organization instruments used only to illuminate possible reform directions. It does not examine the wage, provident fund, or maternity-benefit provisions of the Code on Social Security, 2020 except where these intersect with employment-injury compensation, and it does not draw on empirical claim-disposal data from individual Commissioners' offices, which remains a task for future research.

II. EVOLUTION AND LEGAL FRAMEWORK OF THE EMPLOYEES' COMPENSATION ACT

A. Historical development

The Act of 1923 drew on the English workmen's compensation legislation that began with the Workmen's Compensation Act, 1897, which had introduced a statutory, no-fault alternative to fault-based recovery in tort. India's 1923 Act was one of the first pieces of labour legislation enacted by the colonial legislature, predating the Trade Unions Act, 1926 and the Industrial Disputes Act, 1947. Its core structure (employer liability without proof of fault, compensation computed on a statutory formula, and adjudication before a specially appointed Commissioner rather than a civil court) has remained essentially unchanged through subsequent amendments, including the 2009 amendment that renamed it, replaced the fixed ceiling on the monthly wages taken into account with a power for the Central Government to specify those wages by notification, raised the minimum compensation payable, and extended the employments covered by Schedule II.⁷

B. Objectives of the Act

The Supreme Court has repeatedly described the Act as a welfare measure. In *Jaya Biswal v. Branch Manager, IFFCO Tokio General Insurance Co. Ltd.*, the Court held that the Act "is a welfare legislation enacted to secure compensation to the poor workmen who suffer from injuries at their place of work" and that it must be construed accordingly.⁸ The Statement of Objects and Reasons to the 1923 Act itself, which the Court quoted in that case, explains that the growing complexity of industry, and the comparative poverty of workmen, made it advisable to protect them from the hardship of accidents through a scheme that also gave employers an incentive to invest in workplace safety.⁹

C. Important definitions

Section 2(1) of the Act defines the terms on which liability turns: "employee", "dependant", "partial disablement", "total disablement", and "wages", while Section 3(2), read with Schedule III, deems the occupational diseases listed there, when contracted in the specified employments after any requisite period of service, to have arisen out of and in the course of employment

⁷ The Workmen's Compensation (Amendment) Act, 2009 (Act 45 of 2009), s. 7 (amending s. 4 of the 1923 Act, including the raised minimum amounts for death and permanent total disablement, the omission of Explanation II to s. 4(1) and the insertion of s. 4(1B)) and s. 10 (amending Schedule II).

⁸ *Jaya Biswal v. Branch Manager, IFFCO Tokio General Insurance Co. Ltd.*, (2016) 11 SCC 201, ¶¶ 20–21.

⁹ *Id.* ¶ 20 (quoting the Statement of Objects and Reasons to the Workmen's Compensation Act, 1923).

unless the contrary is proved.¹⁰ The breadth or narrowness with which these terms are read by Commissioners and courts has a direct bearing on how many claims succeed and how quickly, since disputes over whether a claimant falls within the statutory definition of “employee”, or whether an ailment is a listed occupational disease, are among the most common grounds on which employers resist a claim.

D. Employer’s liability

Section 3(1) of the Act is the pivot of the entire scheme: liability arises the moment personal injury is caused by an accident arising out of and in the course of employment. In *Pratap Narain Singh Deo v. Srinivas Sabata*, the Supreme Court held that an employer’s obligation to pay compensation crystallises on the date of the accident itself, and does not wait upon a subsequent order of the Commissioner settling the amount; a proprietor who did not even make a provisional payment to a carpenter who had lost an arm was accordingly held liable to pay interest and a statutory penalty for delay.¹¹ This immediacy of liability is precisely what is meant to prevent delay at the outset of a claim, though, as later Parts show, it is frequently defeated in practice by disputes over whether the relationship of employer and employee existed at all.

E. Employee’s rights

An injured employee is entitled to have any medical examination the employer requires carried out free of charge by a qualified medical practitioner, and not otherwise than the rules permit; to receive a provisional payment to the extent of the liability the employer accepts, where it disputes the rest; and to have any dispute as to the existence or extent of liability settled by the Commissioner rather than left to unilateral determination by the employer or insurer.¹² Dependants of a deceased employee similarly acquire an independent right to claim, which does not depend on the deceased having taken any step towards a claim in his lifetime.

F. Compensation under the Act

Section 4 prescribes the quantum of compensation payable for death, permanent total disablement, permanent partial disablement, and temporary disablement, each computed with reference to the employee’s monthly wages and, for death and permanent disablement, a statutory “relevant factor” tied to age. Section 4A(3) requires the Commissioner, where the

¹⁰ The Employees’ Compensation Act, 1923, s. 2(1)(d), (dd), (g), (l) and (m) (definitions), and s. 3(2) read with Schedule III (list of occupational diseases).

¹¹ *Pratap Narain Singh Deo v. Srinivas Sabata*, (1976) 1 SCC 289, AIR 1976 SC 222 (compensation falls due under s. 4A(1) as soon as the personal injury is caused, and liability is not suspended until the Commissioner settles the claim under s. 19; the employer, who had also pleaded falsely that the injured carpenter was a casual contractor, was rightly ordered to pay interest and a penalty under s. 4A(3)).

¹² The Employees’ Compensation Act, 1923, s. 11(1) (medical examination), s. 4A(2) (provisional payment) and s. 19(1) (reference to Commissioners).

employer has not paid within one month of the compensation falling due, to direct payment of simple interest at twelve per cent a year (or such higher rate as the Central Government may specify) and, where the delay is found unjustified, permits a further penalty of up to fifty per cent of the amount due, precisely to deter the kind of default that occurred in *Pratap Narain Singh Deo*.¹³ The existence of this penalty provision is itself an acknowledgment, built into the statute from an early stage, that delay by employers is a recurring problem rather than an occasional aberration.

III. PROCEDURE FOR CLAIMING COMPENSATION

A. Reporting of workplace accidents

Section 10 of the Act bars the Commissioner from entertaining a claim unless notice of the accident has been given as soon as practicable and the claim is preferred within two years of the accident or, in the case of death, within two years of the date of death, subject to the Commissioner's power to entertain a claim notwithstanding a late notice or claim where the failure was due to sufficient cause.¹⁴ In practice, delayed reporting is common, particularly where an injured worker is preoccupied with medical treatment or is unaware that a claim exists at all, and disputes over whether "sufficient cause" has been shown for condoning a late claim themselves become a fresh source of litigation and delay.

B. Filing of claims

A claim is filed as an application to the Commissioner for Employees' Compensation for the area in which the accident took place, in which the employee (or, in a death claim, the dependant claiming) ordinarily resides, or in which the employer has its registered office, setting out the relationship of employment, the wages drawn, and the nature and extent of the injury.¹⁵ Where an insurer has undertaken to indemnify the employer, the claimant may, and in practice usually does, seek to have the insurer joined and made directly liable rather than proceeding solely against the employer.

C. Role of the Commissioner

Section 19 of the Act commits to the Commissioner, to the exclusion of the civil courts, any question as to the liability of any person to pay compensation, including whether the person injured is an employee, and as to the amount or duration of compensation, while Section 22

¹³ The Employees' Compensation Act, 1923, s. 4 (amount of compensation), s. 4A(3) (interest and penalty for default) and Schedule IV (relevant factors).

¹⁴ The Employees' Compensation Act, 1923, s. 10(1) and its provisos (notice and claim).

¹⁵ The Employees' Compensation Act, 1923, s. 21(1) (venue of proceedings) and s. 22(2) (particulars of the application).

prescribes the form and manner of an application.¹⁶ The Supreme Court has recently reaffirmed that this power under Section 19 extends to the liability of an insurer under a contract of insurance and permits the Commissioner to hold the insurer jointly and severally liable with the employer, notwithstanding the absence in the 1923 Act of a provision comparable to Section 149 of the Motor Vehicles Act, 1988, precisely because a remedy that leaves the workman to first exhaust the employer's often uncertain solvency before falling back on the insurer would render the Act's remedy illusory.¹⁷

D. Determination of compensation

Once liability is established, or admitted in part, the Commissioner determines quantum with reference to the wages proved, the nature of the injury, and, where relevant, a medical board's assessment of the percentage of disablement. Disputes over the correct monthly wage (often understated in informal or unorganised employment where no wage records are maintained) and over the degree of disablement are two of the most litigated issues at this stage, and each can add months or years to a claim's disposal.

E. Appeals and review

Section 30 permits an appeal to the High Court, but only where a substantial question of law is involved, a limitation intended to prevent the appellate process itself from becoming an instrument of delay.¹⁸ The Supreme Court has been at pains to keep the Act's procedure distinct from that under the Motor Vehicles Act, 1988: in *National Insurance Co. Ltd. v. Mastan*, it held that an insurer's defences under the 1923 Act are not confined by Section 149(2) of the 1988 Act, since the two statutes are self-contained codes serving different purposes, one founded on no-fault liability arising from the employment relationship, the other, in a claim under Chapter XI of the 1988 Act, on proof of negligence in a motor accident.¹⁹ Even so, appeals by insurers on narrow or technical grounds remain, as the following Parts show, one of the more persistent sources of delay at this final stage of the process.

¹⁶ The Employees' Compensation Act, 1923, s. 19 (reference to Commissioners) and s. 22 (form of application).

¹⁷ *Alok Kumar Ghosh*, *supra* note 6, ¶ 13 (relying on *Gottumukkala Appala Narasimha Raju v. National Insurance Co. Ltd.*, (2007) 13 SCC 446, ¶ 26).

¹⁸ The Employees' Compensation Act, 1923, s. 30(1) and its first proviso (appeal to the High Court).

¹⁹ *National Insurance Co. Ltd. v. Mastan*, (2006) 2 SCC 641 (Civil Appeal No. 7381 of 2005, with Civil Appeal No. 7383 of 2005, decided Dec. 9, 2005).

IV. CHALLENGES IN SECURING TIMELY COMPENSATION

A. Delay in reporting accidents

Workers, particularly in the unorganised sector, often do not report accidents promptly, whether out of ignorance of the two-year limitation under Section 10, fear of jeopardising continued employment, or simple preoccupation with treatment and recovery. Each month of delay in reporting narrows the evidentiary trail (witnesses become harder to trace, and contemporaneous records, where they exist at all, are harder to obtain), which in turn lengthens the time the Commissioner needs to determine liability.

B. Procedural complexities

The joinder of an insurer, the determination of the correct wage, and the assessment of disablement each introduce their own procedural steps, and each can be contested. The Supreme Court has recently criticised the High Court in *Alok Kumar Ghosh* for adopting what it called a “hyper technical approach” that overlooked the Commissioner’s power under Section 19 and modified the award to the disadvantage of the claimant even though the insurer’s liability under the contract of insurance was not in dispute.²⁰ Such appeals, even when ultimately unsuccessful, delay the actual release of funds to a family that, in many cases, is waiting on that compensation to meet immediate needs.

C. Lack of awareness among employees

Workers in the informal and unorganised sectors frequently do not know that the Act exists, do not know how to approach a Commissioner, and have limited access to legal aid. This lack of awareness is compounded where the employer is a small, unregistered establishment with no history of dealing with statutory compliance, and it is a problem the Act’s text does nothing by itself to solve.

D. Employer resistance

Employers not infrequently dispute the very existence of an employer-employee relationship, characterise an injured worker as an independent contractor, or dispute the wages actually paid in order to reduce the compensation payable. Because the claimant carries the burden of proving that the accident arose both out of and in the course of employment,²¹ an employer with

²⁰ *Alok Kumar Ghosh*, *supra* note 6, ¶ 19.

²¹ *Mackinnon Mackenzie & Co. (P) Ltd. v. Ibrahim Mahommed Issak*, (1969) 2 SCC 607, AIR 1970 SC 1906 (in a claim for the death of a missing seaman, the burden lay on the claimant to establish, if not by direct evidence then by a legitimate inference from proved facts, that the accident arose out of and in the course of employment).

resources to contest the claim can, simply by denying the relationship or the circumstances of the accident, force a claimant into a protracted evidentiary contest.

E. Administrative delays

Vacancies in the office of Commissioner for Employees' Compensation, uneven staffing across districts, and the continued reliance on paper records and physical hearings in many Commissioners' courts all add to the time a claim takes to reach final disposal, independent of any dispute between the parties themselves. These are administrative rather than legal constraints, but their cumulative effect on the pace of disposal is no less significant than the procedural and evidentiary disputes discussed above.

V. JUDICIAL INTERPRETATION AND LANDMARK DECISIONS

A. Important Supreme Court judgments

The meaning of the phrase "arising out of and in the course of employment" has occupied the Supreme Court since shortly after Independence. In *Saurashtra Salt Mfg. Co. v. Bai Valu Raja*, the Court recognised the theory of "notional extension", holding that although employment ordinarily begins only when a workman reaches the place of work, there may be a reasonable extension of both time and place, so that a workman may be within the course of employment even before reaching, or after leaving, the employer's premises.²² In *General Manager, B.E.S.T. Undertaking, Bombay v. Mrs. Agnes*, the Court applied and adapted this doctrine to a bus driver killed while travelling home on his employer's free transport, holding that where an employer provides transport as a matter of service necessity, the entire fleet of buses could be treated as the employer's premises for this purpose.²³

The doctrine took a more restrictive turn in *Regional Director, Employees' State Insurance Corporation v. Francis De Costa*, where the Court held, in a claim under the analogous provision of the Employees' State Insurance Act, 1948, that a road accident occurring a kilometre from the workplace while an employee was on his way to work could not be said to have arisen out of or in the course of employment, since employment did not commence merely because the employee had set out from home.²⁴ Parliament responded by inserting Section 51E into the Employees' State Insurance Act, with effect from 1 June 2010, deeming a commuting accident to have arisen out of and in the course of employment wherever a nexus between the

²² *Saurashtra Salt Mfg. Co. v. Bai Valu Raja*, AIR 1958 SC 881, ¶ 7, 1958 SCC OnLine SC 131 (on the facts, workmen drowned while crossing a creek in a boat used by the public were held not to have been in the course of employment).

²³ *General Manager, B.E.S.T. Undertaking, Bombay v. Mrs. Agnes*, (1964) 3 SCR 930, 951–52, AIR 1964 SC 193.

²⁴ *Regional Director, Employees' State Insurance Corp. v. Francis De Costa*, (1996) 6 SCC 1.

circumstances, time, and place of the accident and the employment is established.²⁵ In *Daivshala v. Oriental Insurance Co. Ltd.*, decided on 29 July 2025, the Supreme Court held that this amendment, being clarificatory and declaratory in character, operates retrospectively.²⁶ It further held that, because Section 3 of the Employees' Compensation Act, 1923 and the corresponding provision of the ESI Act use identical language and serve a common social-security purpose, the two statutes are *in pari materia*, so that the phrase "accident arising out of and in the course of his employment" in Section 3 of the 1923 Act bears the meaning that Section 51E gives it (the Court was explicit that it was not importing Section 51E itself into the 1923 Act); on the facts, the family of a night watchman killed five kilometres from his workplace while riding his motorcycle to a 3 a.m. shift was accordingly held entitled to compensation.²⁷

As already noted, *Pratap Narain Singh Deo v. Srinivas Sabata* establishes that the employer's liability crystallises on the date of the accident itself, and *Jaya Biswal v. Branch Manager, IFFCO Tokio General Insurance Co. Ltd.* affirms the Act's character as welfare legislation calling for a beneficial construction. Most recently, *Alok Kumar Ghosh v. New India Assurance Co. Ltd.* has held that the object of the Act "is not merely to provide compensation but also to provide a speedy and efficacious remedy",²⁸ and, finding that the insurer's unnecessary appeal on a technical plea had prevented the timely release of compensation to the workman, ordered the insurer to pay him costs of Rs. 50,000.²⁹

B. High Court decisions

High Courts hearing appeals and applications for condonation of delay under the Act have consistently reiterated its welfare character. In one recent Delhi High Court appeal, an insurer sought condonation of a delay of 565 days in challenging a Commissioner's award; the Court found that no sufficient cause had been shown but nonetheless heard the appeal on its merits, reaffirmed, quoting *Jaya Biswal*, that the Act "is a welfare legislation enacted to secure compensation to the poor workmen who suffer from injuries at their place of work", and dismissed the appeal.³⁰ High Courts have also held that once an employer has paid an additional premium to cover its statutory liability, an insurer cannot resist either the compensation or the

²⁵ The Employees' State Insurance Act, 1948, s. 51E (inserted with effect from 1 June 2010); see *Daivshala*, *supra* note 3, ¶¶ 15–16, 44. For accidents after 21 November 2025, the same rule is re-enacted in the Code on Social Security, 2020 (Act 36 of 2020), s. 74(4) (employees' compensation) and s. 34(3) (employees' state insurance).

²⁶ *Daivshala*, *supra* note 3, ¶ 44.

²⁷ *Id.* ¶¶ 47–49, 55–56.

²⁸ *Alok Kumar Ghosh*, *supra* note 6, ¶ 13.

²⁹ *Id.* ¶¶ 19–20.

³⁰ *National Insurance Co. Ltd. v. Mukhan*, FAO 515/2018, 2023/DHC/000920, ¶¶ 2–5, 19 (Del. HC Jan. 31, 2023) (Manoj Kumar Ohri, J.).

accompanying penalty on the ground that the policy did not expressly contemplate such liability,³¹ reinforcing at the High Court level the same reluctance to let technical insurance defences defeat or delay an award that the Supreme Court expressed in *Alok Kumar Ghosh*.

C. Principles evolved by courts

Read together, these decisions yield a consistent set of principles: liability under the Act is no-fault and crystallises on the date of the accident; the Act, being welfare legislation, is to be liberally construed in favour of the claimant; the burden of proving that an accident arose out of and in the course of employment lies on the claimant, though it may be discharged by legitimate inference rather than direct proof; the doctrine of notional extension allows the course of employment to extend, in appropriate circumstances, beyond the physical boundaries of the workplace, including to commuting accidents where a sufficient nexus is shown; an insurer may be held jointly and severally liable with the employer under Section 19; and appellate courts should be astute not to allow technical or preliminary objections to defeat or delay the Act's speedy remedy.

D. Impact of judicial decisions on employees' rights

The cumulative effect of this case law has been to widen the practical reach of the Act, most recently by extending compensation to commuting accidents, while simultaneously narrowing the room available to employers and insurers to resist or delay payment on technical grounds. Yet, as Part IV has shown, judicial correction of individual appeals, however welcome, does not by itself supply the administrative capacity, awareness, or procedural simplification that would prevent delay from arising in the first place; that remains a task for the executive and the legislature.

VI. PRACTICAL ISSUES IN IMPLEMENTATION

A. Problems in the organised sector

Workers in factories and notified establishments are generally covered by the Employees' State Insurance Act, 1948 rather than the Employees' Compensation Act, 1923, and Section 53 of the ESI Act bars an insured person or dependant from recovering compensation under the 1923 Act, or any other law, in respect of an employment injury sustained as an employee under the ESI

³¹ See, e.g., *National Insurance Co. Ltd. v. Harendra Singh*, FAO 149/2022, ¶¶ 15–20 (Del. HC Apr. 17, 2025) (Dharmesh Sharma, J.) (insurer that had charged an additional premium for the insured's liability under the 1923 Act held unable to escape the penalty under s. 4A(3)(b), distinguishing *Ved Prakash Garg v. Premi Devi*, (1997) 8 SCC 1, and noting its approval of *United India Insurance Co. Ltd. v. Roop Kanwar*, 1991 ACJ 74 (Raj.)).

Act.³² This bar is intended to prevent duplicate recovery, but disputes frequently arise, and add delay, over whether a particular establishment or employee is in fact covered by the ESI scheme at all,³³ so that a claimant may find a claim under the 1923 Act contested on the ground that the ESI Act alone applies, and vice versa.

B. Challenges in the unorganised sector

For construction workers, agricultural labourers, and other unorganised-sector employees, the absence of written contracts, wage records, or attendance registers makes it difficult even to establish the existence of an employer-employee relationship, let alone the wages on which compensation is to be computed. Employers in this sector are also more likely to be individually unregistered and financially unable to satisfy an award, which is precisely the gap that the joint liability of an insurer under Section 19, discussed in Part III, is meant to close, provided, of course, that a policy of insurance exists at all.

C. Occupational diseases and compensation

Schedule III of the Act, read with Section 3(2), lists diseases that are deemed to arise out of and in the course of employment where a worker has contracted them in a listed employment after any continuous period of service that the Act specifies, easing the claimant's burden of proving causation for conditions such as silicosis or occupational deafness that develop gradually and manifest only after employment has ended.³⁴ In practice, however, the latency of many occupational diseases, combined with poor record-keeping of a worker's employment history across successive employers, continues to make such claims some of the hardest, and slowest, to establish.

D. Issues faced by contract and gig workers

Contract labour engaged through an intermediary contractor can claim compensation under Section 12 from the principal employer, who is liable as if the worker had been immediately employed by him where the work is ordinarily part of his trade or business, and who may in turn claim indemnity from the contractor;³⁵ establishing that chain of liability, however, itself takes time. Gig and platform workers occupy a still more uncertain position: because they are typically not "employees" within the meaning of Section 2 of the 1923 Act, they fall outside its

³² The Employees' State Insurance Act, 1948, s. 53 (bar against receiving or recovery of compensation or damages under any other law); see *Daivshala*, *supra* note 3, ¶ 24.

³³ See, e.g., *Bombay Anand Bhavan Restaurant v. Deputy Director, Employees' State Insurance Corp.*, (2009) 9 SCC 61, ¶¶ 20–21 (a restaurant's challenge to its coverage under the ESI Act, rejected on the footing that the Act is beneficial social-security legislation to be liberally construed).

³⁴ The Employees' Compensation Act, 1923, s. 3(2) and Schedule III (including noise-induced hearing impairment in Part B and silicosis in Part C).

³⁵ The Employees' Compensation Act, 1923, s. 12(1)–(2) (contracting).

fault-free, employer-liability model altogether. The Code on Social Security, 2020 instead brings gig and platform workers within a separate, scheme-based welfare architecture, funded in part by aggregator contributions of one to two per cent of annual turnover, subject to a cap, rather than by individual employer liability for each accident.³⁶ The Social Security (Central) Rules, 2026, notified on 8 May 2026 in place of the draft rules gazetted on 30 December 2025, provide for registration of gig and platform workers on a central portal and for the generation of a Universal Account Number,³⁷ but the benefits that schemes under the Code will actually deliver remain to be seen.

E. Insurance-related concerns

Even where an employer has taken out a policy of insurance, disputes over the scope of that policy (whether it covers the particular employee, the particular risk, or the particular period) are common, and, as *Alok Kumar Ghosh* illustrates, insurers not uncommonly resist joint liability or file appeals on technical grounds even where they do not dispute their ultimate obligation to indemnify the employer. The Supreme Court's willingness in that case to impose costs on an insurer for such conduct is a significant, if still isolated, deterrent.

VII. COMPARATIVE ANALYSIS

A. Employees' compensation laws in the United Kingdom

The United Kingdom replaced its workmen's compensation system of individual employer liability with a state-administered, no-fault Industrial Injuries Disablement Benefit scheme, under which an employee who has worked in a listed occupation and developed a prescribed disease, or who has suffered an industrial accident, may claim benefit without having to prove employer negligence and without having to identify or sue a particular employer or insurer at all.³⁸ Because the benefit is paid out of a state scheme rather than recovered from an individual employer or insurer through adjudicated litigation, the scope for the kind of employer or insurer resistance discussed in Parts IV and VI is correspondingly narrower.

³⁶ The Code on Social Security, 2020 (Act 36 of 2020), s. 2(35) ("gig worker"), s. 2(61) ("platform worker"), s. 114(4) (aggregator contribution of not less than one and not more than two per cent of annual turnover, not exceeding five per cent of the amount paid or payable to gig and platform workers) and s. 141(1) (Social Security Fund).

³⁷ Notification G.S.R. 344(E), *supra* note 5, r. 48(2) (Social Security (Central) Rules, 2026); *see also* Notification G.S.R. 935(E), *supra* note 5 (draft rules).

³⁸ *See Industrial Injuries Disablement Benefit: Eligibility*, GOV.UK, <https://www.gov.uk/industrial-injuries-disablement-benefit/eligibility> (last visited Oct. 11, 2026) (benefit for those disabled by an accident at work, or by a prescribed disease caused by their job, while employed; the self-employed are excluded). Employers and other responsible persons are separately required to report specified work-related injuries, diseases and dangerous occurrences under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, SI 2013/1471.

B. Position in Australia

Australian workers' compensation is administered principally on a state and territory basis, but Safe Work Australia's comparative reporting shows a broadly common structure across jurisdictions: statutory cover for medical, hospital and rehabilitation costs, income-replacement payments during incapacity, and a lump-sum payment for permanent impairment assessed against a standard scale, all administered through a scheme regulator rather than through case-by-case litigation against an individual employer.³⁹ This regulator-led model reduces, though it does not eliminate, the scope for the kind of appeal-driven delay that Indian claimants continue to encounter.

C. International Labour Organization (ILO) standards

The Employment Injury Benefits Convention, 1964 (No. 121) sets minimum international standards for the scope of coverage, the contingencies to be covered, and the periodical or lump-sum nature of benefits payable for employment injury.⁴⁰ While India has not ratified Convention No. 121, the Convention's requirement that cash benefits ordinarily take the form of periodical payments, its guarantee to every claimant of a right of appeal, and its placing on the State of general responsibility for the due provision of benefits and the proper administration of the institutions concerned⁴¹ offer a useful benchmark against which to measure the comparative slowness and cost of India's adjudicated, Commissioner-by-Commissioner model.

D. Lessons for India

The UK and Australian models suggest that a single, centrally or regionally administered benefit scheme, rather than case-by-case adjudication against an individual employer and insurer in every instance, tends to reduce the opportunities for the kind of delay documented in this paper. India's Code on Social Security, 2020 gestures towards this model for gig and platform workers through its scheme-based, aggregator-funded architecture, but for the great majority of employees still covered by the substituted provisions of the 1923 Act, compensation continues to depend on an individualised claim against a particular employer or insurer, adjudicated by a Commissioner and subject to appeal: a structure considerably closer to litigation than to benefit administration.

³⁹ See SAFE WORK AUSTRALIA, COMPARISON OF WORKERS' COMPENSATION ARRANGEMENTS IN AUSTRALIA AND NEW ZEALAND 2025 (30th ed.), <https://www.safeworkaustralia.gov.au/doc/comparison-workers-compensation-arrangements-australia-and-new-zealand-2025> (comparing coverage, benefits, return to work, scheme administration and dispute resolution across the Australian and New Zealand schemes).

⁴⁰ Convention Concerning Benefits in the Case of Employment Injury (ILO No. 121), July 8, 1964, 602 U.N.T.S. 259.

⁴¹ *Id.* arts. 14(2), 23, 24(2), 25.

VIII. SUGGESTED REFORMS AND RECOMMENDATIONS

A. Simplification of claim procedures

Standard, simplified claim forms; a presumption in favour of the wage figure recorded in any available document (a wage slip, an attendance register, or even an Aadhaar-linked payment record) unless rebutted by the employer; and a fixed, short timeline for an employer or insurer to admit or deny liability would each reduce the scope for the kind of protracted evidentiary dispute discussed in Part IV.

B. Digitalisation of compensation claims

E-filing of claims, digital transmission of medical board reports, and online tracking of a claim's status before the Commissioner would reduce the administrative delay discussed in Part IV.E, and would also make it easier to identify, and eventually register, unorganised-sector and gig workers whose claims are presently hardest to document.

C. Strengthening labour administration

Vacancies in the office of Commissioner for Employees' Compensation should be filled proactively rather than reactively, and Commissioners' offices should be given a dedicated cadre of trained staff, since adequate adjudicatory and administrative strength is a precondition for any specialised adjudicatory body to function as intended.

D. Increasing awareness among employees

Given that the Code on Social Security, 2020 and the rules made under it already provide for portal-based registration and a Universal Account Number for gig and platform workers, a comparable registration and awareness drive, run through the same portal infrastructure, could usefully be extended to unorganised-sector workers more generally, so that eligibility for compensation is not left to chance discovery after an accident has already occurred.

E. Policy and legislative reforms

Building on the preceding analysis, this paper recommends: statutory, enforceable timelines for an employer or insurer to admit or deny liability once notice of an accident is received; routine imposition of costs, along the lines indicated in *Alok Kumar Ghosh*, on insurers found to have filed appeals on purely technical grounds; prompt and coordinated implementation of the Central and State rules under the Code on Social Security, 2020 so that the transition from the 1923 Act does not itself become a fresh source of uncertainty and delay; and periodic, published audits of claim-disposal times by Commissioners' offices, to allow targeted intervention where backlogs are concentrated.

IX. FINDINGS AND CONCLUSION

A. Major findings of the study

The study finds that delay in securing compensation under the Employees' Compensation Act, 1923 arises less from any deficiency in the Act's substantive, no-fault design than from the procedural, evidentiary, and administrative steps through which that design is implemented: delayed reporting, contested employer-employee relationships, contested wage figures, insurer resistance to joint liability, and administrative under-capacity at the level of the Commissioner's office. Judicial decisions, most recently in *Alok Kumar Ghosh* and *Daivshala*, have both widened the Act's substantive reach, particularly to commuting accidents, and narrowed the room for technical, delay-inducing objections, but courts can correct individual appeals; they cannot themselves supply the administrative capacity or awareness that would prevent delay from arising in the first place. The absorption of the Act into the Code on Social Security, 2020, effective from 21 November 2025, adds a further, still-unresolved layer of uncertainty, since the Central rules needed to give full effect to the new Code's provisions, including its separate scheme for gig and platform workers, were finalised only in May 2026 and have yet to be tested in practice.

B. Conclusion

Timely compensation for employment injury is not a procedural nicety but the substantive object of the legislation itself: a no-fault scheme that takes years to yield payment fails the very workers it was designed to protect, regardless of how generous its formula for computing compensation may be on paper. India's statutory and judicial response to this problem has been real but partial: doctrinal clarifications that widen coverage, occasional costs imposed on dilatory insurers, and now a fresh statutory consolidation whose practical effect on the speed of compensation remains to be seen. Whether that consolidation improves matters will depend less on the text of the Code on Social Security, 2020 than on the administrative capacity, digital infrastructure, and institutional will that are brought to bear in implementing it.

C. Suggestions for future research

This study has been doctrinal in method and has not drawn on empirical claim-disposal data from individual Commissioners' offices; such data, once available, would allow a far more precise measurement of where delay accumulates than doctrinal analysis alone can provide. Future research could also usefully track the implementation of the Code on Social Security, 2020 and its gig-worker welfare scheme as the Central and State rules are brought into

operation, and could extend the comparative analysis offered here to other jurisdictions in South and Southeast Asia facing similar constraints on labour administration.
