

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

The Employee's Compensation Act, 1923 & Code on Social Security

SRISHTI VIRAT¹ AND BUDH ANKUR²

ABSTRACT

Two critical pieces of regulation that significantly influence the rights and protections of workers in India are the Employee's Compensation Act, of 1923, and the Code on Social Security. Employees who sustain injuries or impairments as a result of and over the span of their occupation are qualified for compensation under the Employee's Compensation Act, of 1923, normally known as the Workmen's Compensation Act. Number of their compensation or the idea of their work, all workers are covered by the Act. Employees who have injuries or impairments that prohibit them from completing their tasks must be compensated by their employers, and this compensation is calculated using the employee's average monthly salary. According to the Act, businesses are required to keep complete records of all accidents and occupational illnesses that happen at their workplaces. The Kind of accidents and occupational illnesses that occur at their workplaces must also be reported by employers on an annual basis to the proper authorities. The Employee's Compensation Act, of 1923 is one of the surviving social security legislations that has been supplanted and consolidated by the Code on Social Security, which was endorsed by the Indian Parliament in the year 2020. All Indian workers, including those in the unorganized sector, are intended to have complete social security coverage as a result of the Code. Employees are qualified for a range of social security benefits under the Code, including maternity benefits, disability benefits, health insurance, and old age pensions. Businesses are committed to paying into a social security reserve, which is used to pay for these benefits, a specific piece of the wages paid to their workers. The Public Social Security Board, the State Social Security Board, and the Employee State Insurance Company are just a couple of the organizations that the Code creates to work and oversee the social security system. These organizations are in charge of monitoring the Code's application and making sure that workers get their due social security payments. Moreover, it should be noted that the Employee's Compensation Act of 1923 and the Code on Social Security are significant pieces of law that provide essential benefits and safeguards to Indian workers. These rules guarantee that workers get just compensation for harms and impairments sustained while doing their jobs and that they have access to full social security coverage for the duration of their working lives.

¹ Author is a student at University School of Law and Legal Studies, GGSIPU, Dwarka, India.

² Author is a student at University School of Law and Legal Studies, GGSIPU, Dwarka, India.

Keywords: *Employee's Compensation Act, 1923; Workmen's Compensation Act; Compensation Injuries; Disabilities; Occupational disease.*

I. INTRODUCTION

The Employee's Compensation Act, of 1923 is a piece of law that establishes the provision of compensation to workers if they sustain injuries while on the job. The statute mandates that companies get insurance policies to provide such compensation to protect employees who could suffer injuries or disabilities at work. The term "compensation" refers to an act or gift intended to make up for harm, inconvenience, etc.³. In every society, some kind of insurance is required to protect the worker against hazards to which he is exposed because of his occupation and which he is unable to cover on his own. This assurance, which protects against the dangers of work, is provided in the form of remuneration. Quite possibly the earliest regulation to accommodate employee compensation was the Employee's Compensation Act of 1923. The compensation rule was established on account of *Shobha & Others vs. Vithalarao Shinde*⁴ as indicated by the decision; the Employee's Compensation Act will likely compensate the employee for his genuine losses, not give him a solatium. A social insurance program for the country's workers was first made a lot later, in 1948, under the Workers' State Insurance Act⁵. In contrast to the prior program, this one is supported by shared contributions from the government, companies, and workers. Together, the two laws made what might be alluded to as a code of social security benefits for the country's employees. The Act's purpose is to provide provisions for some companies to compensate their workers for injuries they get accidentally while on the job. The Act also considers occupational sickness that an employee gets while working as an accident-caused injury.

II. APPLICABILITY

By the goodness of Section 38- of The Bombay Shops and Establishments, the Workers' Compensation Act is relevant to all shops and establishments in Maharashtra. By Section 16 of the Apprentices Act, employers that appoint apprentices under the terms of the Apprentices Act of 1961 are responsible for compensating the apprentices if they suffer a personal injury or an accident during the course of work.

³Merriam-Webster Dictionary. (Nod.). Compensation Retrieved from <https://www.merriam-webster.com/dictionary/compensation>

⁴*Shobha & Ors. Vs. Vithalarao Shinde Sahakari Sakhar Karkhana Ltd. & Ors.* (2022 Live law SC 271)

⁵Employees' State Insurance Act, 1948. Available at: <https://www.esic.nic.in/esi-act-rules>

A. Eligibility

According to the Act, the following people are eligible for compensation: -

- A few railroad employees;
- Those who are referred to in Schedule II of the Act,
- Those who work in one of the professions referenced in Schedule III of the Act.

B. Injuries Compensated under the Act

As per the Act, injuries are generally separated into four categories: those that result in: -

- Death,
- Complete and Permanent Disability
- Partial permanent disability &
- Temporary disability, whole or partial
- Acquired occupational illnesses.

The Act stipulates several compensation tiers for various types of injuries.

III. CONDITIONS FOR RECEIVING COMPENSATION

Assuming an employee sustains personal mischief because of an occasion that occurred while they were working, they are qualified for compensation under the Act. It implies the accident must happen when the person is at work and must be related to his job.

Situations in which an employer is not required to compensate a worker for injuries: -

1. Under the following situations, the employer is not required to compensate an employee for an accident: -
2. If the damage does not leave the employee completely or partially disabled for more than three days;
 - a. On the off chance that the employee's physical issue does not end in death, and it was welcomed on by a mishap that can be straightforwardly connected to:
 - b. If an employee was using drugs or alcohol at the time of the incident,
 - c. Disobedience by the employee to a directive that has been made explicitly clear or to a regulation that has been drafted specifically to ensure the safety of workers,
 - d. Hardheaded expulsion or disregard by the employee of any safety monitor or other gadget that was made accessible to ensure the employee's safety.

IV. AMOUNT OF COMPENSATION

At the point when an employee has a mishap that ends in his passing, his dependents are qualified for compensation comparable to the more noteworthy of half of his month-to-month pay duplicated by a number going from 228.54 to 99.37 (contingent upon the age of the dead employee), or Rs.1,20,000. Nevertheless, on the off chance that the dead employee's month-to-month salary surpasses Rs.8,000, they may be considered to be Rs.8,000 to register the compensation (w.e.f. 31st May 2010). The Correction Act of 2000 increased the base measure of death benefits from Rs.50,000 to 80,000 and increased the considered most extreme month-to-month pay of the dead employee from Rs.2,000 to 4,000. In addition, India recently passed the Code on Social Security, 2020, which codifies and changes legislation governing worker social security payments. The law offers benefits to employees in both the organized and unorganized sectors, including provident funds, health and maternity benefits, and gratuities. The purpose of the law is to guarantee that all Indian employees have access to fundamental social security benefits as well as a complete and universal social security system. When it is passed into law, the Code on Social Security, 2020 will address the Employer's obligation to pay Compensation. Compensation is defined vaguely in Section 2(15) of the Social Security Law as "compensation implies remuneration as specified under Chapter VII." According to the Code, compensation refers to making up for loss an employee has endured as a consequence of a personal injury that occurred during the course of work and ended in death, entire or partial disability for a certain amount of time, or either. The defense of "savage non-fit injuria," "contributory carelessness," "unavoidable mishap," or "carelessness of collaborators," which is accessible in any procedure in torts, is not accessible in that frame of mind for compensation⁶. Moreover, compensation under work regulation is not equivalent to damages in torts. Additionally, it was chosen on account of *Raj Kumar v. Ajay Kumar*⁷ that the principal objective of paying damages is to compensate the genuine loss caused as a result of any off base that has been finished, to the extent that cash can accomplish, in a reasonable, consistent, and fair way. The Court or the Council must impartially assess the damages and cautiously preclude any type of presumption or extravagant, yet inescapable some sort of guess about the idea of the disability and its effects will be made. Besides, it was concluded that a casualty should get compensation for both the substantial mischief and the loss they persevered as a result of the harm. It means that the individual should get compensation for his powerlessness to carry on with a typical life and partake in the same comforts that he would have delighted in before the mishap, as well as

⁶ Gupta, S. C. (2018). *Labour and Industrial Laws* New Delhi: Kamal Publishers

⁷ *Raj Kumar vs. Ajay Kumar*, AIR 2000 HP 16

for the loss of his procuring potential.

V. SECTION 3 OF THE EMPLOYEES' COMPENSATION ACT, 1923: OCCUPATIONAL DISEASES

The 2009 adjustment changed the name of the Workmen's Compensation Act of 1923 to turn into the Employee's Compensation Act of 1923⁸. The key objective of this Act, which is based on British regulation, is to give measures to employers to furnish workers with sufficient compensation for any occupational risks to which they are exposed⁹. It covers the entire of India, including Jammu and Kashmir (then, at that point, a state; it is currently an Association Domain)¹⁰. Workers who get benefits under the 1948 Employees State Insurance Act are not qualified for benefits under this Act¹¹. The most recent update to this Act was enacted on January 3, 2020, when the Central Government raised the monthly salary threshold for calculating compensation under the Act from 8000 to 15,000 rupees¹². Several conditions must be met by Section 3 of the Act for a business to be responsible for compensation. First, the specialist unquestionably suffered personal damage. Notwithstanding physical damage, the expression "personal injury" also refers to psychological mischief or deviant mental states. It specifies that an employee is qualified for compensation under the Act assuming they get sick with any of the diseases listed to some extent C of Schedule III of the Act as a consequence of their work. Pneumoconiosis, lead, mercury, benzene, anthrax, and silicosis are only a few of the illnesses mentioned in Part C. The Act also mandates that the employer keep a registry of all workers whose jobs expose them to any of the listed occupational disorders. The register must include the employee's name, age, kind of employment, and the day they first came into contact with the illness in question. The employer is required to notify the Commissioner of Workers' Compensation of any occupational illness an employee gets within thirty days of the ailment's diagnosis. After that, the employee or their family may file a claim for compensation under the Act. On account of *Indian News Annal vs. Mrs. Lazarus*¹³, a specialist passed away from pneumonia as a result of rehashed obligation-related transportation from a warming space to a cooling plant. It was maintained that the death was caused by stress brought on by a temperature shift rather than physical harm. In this instance, it was decided that personal damage meant far more than just bodily harm. It's also crucial to remember that in situations of occupational

⁸ The Employee's Compensation (Amendment) Act, 2009

⁹ Ministry of Labour and Employment (nod) The Employee's Compensation Act, 1923

¹⁰ The Employee's Compensation Act, 1923

¹¹ Ministry of Labour and Employment (nod) Employees State Insurance Act, 1948

¹² The Employee's Compensation (Amendment) Act, 2020

¹³ *Indian News Chronicle v. Mrs. Lazarus*, AIR 1963 SC 974

disorders, an employer may also be held accountable. Second, the harm must have been brought about by an accident. Any unanticipated incident or circumstance brought on by a behavior that was not foreseen in advance might be referred to as an accident¹⁴. Its major trait is a lack of anticipation. It was contended on account of *Sungarbai v. Mandate Factory* that a mishap is not simply an outside event but rather may also happen inside to a person, and in such a scenario, "mishap" and "harm" must be decided to correspond, as in the instance of cardiovascular breakdown. As per *Bai Shakri vs. New Manekchowk Mills Co.*,¹⁵ a sequence of minor mishaps with unclear outcomes that occur cumulatively and result in final harm when considered together constitute an accident for purposes of this provision. As long last, the occurrence that resulted in the mishap needed to "arise out of and in the course of work" of the employee. As it was established on account of *Ravuri Kotayya vs. Dasari Nagavardhanamma*¹⁶ that the employee must complete his responsibilities and they needed to expect him to be present there. All the more significantly, there must be a causal connection between the act that caused the mishap and his responsibilities, and it could never have been a far-off one. On account of **Sri Jayaram Engine Service vs. Pitchammal**¹⁷, it was contended that an association was made between an employee's demise and his occupation when a gatekeeper passed on over an hour and a half in the wake of going home as a consequence of stress welcomed on by his work during the hour of work. As per the "Regulation of Notional Extension," which was first discussed on account of **Saurashtra Salt Manufacturing Co. vs. Bai Vala Raju**¹⁸, the business might be considered responsible on the off chance that the employee is considered to be acting in the course of work regardless of whether he has not shown up at or left the business premises and is going there and back on a specific method of transportation. However, in this instance, no justification for this thought was advertised.

As per **Section 3** of the Act, a business is not expected to give benefits in the accompanying circumstances, which might be summarized as follows:

- i. Where the damage suffered does not result in whole or fractional disability lasting over three days,
- ii. When the employee was at fault for the injury-causing accident, which did not result in death or permanent complete disability-

¹⁴Section 3 of the Employee's Compensation Act, 1923

¹⁵*BaiShakri v. New Manekchowk Mills Co.*, AIR 1960 SC 661

¹⁶*Ravuri Kotayya v. Dasari Nagavardhanamma*, AIR 1966 SC 135

¹⁷ *Sri Jayaram Motor Service v. Pitchammal*, (1970) 1 LLJ 417 Mad

¹⁸*Saurashtra Salt Manufacturing Co. v. Bai Vala Raju*, AIR 1958 SC 881

- a. Using drugs or alcohol when inebriated,
- b. By breaking the regulations that were specifically created to protect him,
- c. Disregarding or purposefully eliminating the safety gadget that was there for his security.

On account of **R B Moondra Et Co. vs. Mst. Bhanwari**¹⁹, it was contended that demise resulting from any of the causes listed in (a) to (c) couldn't be claimed while seeking compensation. On account of **Devidayal Ralyaram v. Secretary of State**²⁰, it was concluded that the business couldn't be considered responsible for an employee's actions when they are acted in the course of their work and imply extra risk. It is one of those instances where the "Precept of Added Hazard" was progressed, which just states that a business can't be considered responsible if an employee engages in one more act while performing work for the business that is not expected of him as a component of his business and that act involves extra risk²¹. It is significant to take note that The Employee's Compensation Act, of 1923 has been superseded by The Code on Social Security, 2020, a comprehensive piece of law that addresses a variety of social security benefits for workers. The Employee's Compensation Act of 1923's occupational sickness compensation requirements is mirrored in the Code on Social Security's rules for workplace safety and health.

VI. PERMANENT TOTAL DISABLEMENT: RELEVANT SECTION OF THE EMPLOYEES' COMPENSATION ACT, 1923

According to the Employee's Compensation Act of 1923, a permanent total disability is one that "makes an employee incapable of doing any job that he was capable of performing before the event that caused such disability." This indicates that the accident-related injury or sickness has rendered the employee incapable of working and supporting themselves. Section 4 addresses the compensation due for Permanent Complete Disability. It stipulates that if an employee suffers a permanent total disability as a result of a workplace accident, the business is responsible for compensating the employee at a rate equivalent to 60% of the employee's month-to-month salary, duplicated by the pertinent factor listed in the act's schedule. Besides, on the off chance that both the employee and the business concur, **Section 5** of the Act also permits the installment of a singular amount of compensation in case of Super durable All out Disability. The lump-sum payment's size will be decided based on the present value of the compensation

¹⁹R.B. Moondra Et Co. vs. Mst. Bhanwari, AIR 1957 Raj 144

²⁰Devidayal Ralyaram vs. Secretary of State, AIR 1939 Nag 2

²¹ Indian Law of Torts by Dr. R.K. Bangia, 28th Edition, p. 526-527.

due over the course of the employee's anticipated lifespan. It is crucial to remember that any additional benefits the employee may be eligible for under other social security programs or insurance policies are in addition to the compensation awarded for permanent total disability under the act.

VII. PARTIAL DISABLEMENT: RELEVANT SECTION OF THE EMPLOYEES' COMPENSATION ACT, 1923

Halfway disablement is characterized as "injury which impairs the acquiring skill of an employee in any occupation where he was locked in at the hour of the mishap driving in the injury" under **Section 2(1) (f)** of the Employee's Compensation Act, 1923. Compensation for partial disability is addressed under **Section 4** of the Act. It stipulates that in the event of an accident leading to a partial disability, the employer should provide the employee with compensation based on the proportional loss of earning potential. The degree of the employee's loss of earning capability is taken into account when determining the amount of compensation due for partial disability. The Act lists many types of injuries along with the % loss of earning ability for each one. A competent medical professional chosen by the Commissioner of Workers' Compensation will assess the percentage of loss of earning capacity if the employee's injury is not mentioned on the schedule. A week-by-week installment is equivalent to half of the contrast between the employee's normal week-by-week wages before the mishap and his or her week-after-week earnings after the mishap is expected as fractional disability compensation, up to a month-to-month limit of INR 25,000. When the employee reaches retirement age, or for a limit of five years, whichever comes first, the week-after-week installment is given.

A. Amount of Compensation Received in case of permanent total disablement.

At the point when an employee suffers an extremely durable all-out disability as a result of a physical issue, the person is qualified to get compensation an amount equal to 60% of the employee's month-to-month wages duplicated by a number somewhere in the range of 228.54 and 99.37 (contingent upon the harmed person's age), or in how much 1,20,000, whichever is more prominent. Nevertheless, if the injured employee's monthly salary exceeds 8,000 his monthly salary will only be considered to be 8,000 to determine compensation. How much compensation to which an employee is entitled when a mishap causes him to turn out to be for all time somewhat disabled is a piece of the compensation that would be expected in case of long-lasting total disability. The percentage is a lump sum payout and is based on how much earning capability was lost as a result of the accident.

1. In case of temporary Disablement

Sec-4(d) of the act says Employees who sustain injuries that result in transitory entire or impermanent fractional disability are qualified for compensation as a half-regularly scheduled installment. How much a half-week after-week payout is equivalent to 25% of the employee's month-to-month salary and is determined using the employee's regularly scheduled pay at the hour of the injury. The employee might get compensation for a brief whole disability or transitory incomplete disability for a limit of five years.

2. In case of Fatal Accidents

Compensation for an employee whose injury caused passing is not to be paid out straightforwardly to the person's dependents. Employers are committed to depositing the compensation sum with the Commissioner for Employee's Compensation in such a situation. The Commissioner will then split the funds between the employee's dependents.

Note: It is decided that paying benefits directly to a dependent is illegal, even though he is the sole survivor of the dead worker's family who is suing for money.

3. Protection of Compensation

No case might be transferred, charged, connected, or offset against any compensation payable under the Act, whether as an irregular sum or a half-regularly scheduled installment.

4. Special Powers of the Commissioner in Respect of Lump Sum Payment

Each single amount installment made to an employee or a person with a legitimate disability must be deposited with the Commissioner for Employee's Compensation by the organization. The Commissioner is free to invest much money for the advantage of the lady or that individual while he is disabled.

5. Special Powers of the Commissioner in Respect of Half-Monthly Payment

The Commissioner for Employee's Compensation has the authority to direct that payments made to individuals who are legally entitled to half-monthly compensation be made to any dependents of the employee or to anyone else who is most qualified to look out for the welfare of the employee while they are disabled.

6. Report of Fatal Accidents

Assuming that a mishap occurs on the property of any business that results in the demise of an employee or serious substantial injury to an employee, the business is expected to send a report to the Commissioner for Employee Compensation in the prescribed structure in the span of 7

days of the passing or serious substantial injury, framing the events paving the way until the very end or serious real injury. The major employer is responsible for compensating an employee who sustains an injury while working for a contractor, although the employee has a right to confidentiality. Yet, the employee is free to seek payment from either the contractor or the major employer.

7. Contracting Out

The Act's benefits cannot be contracted out by an employee, meaning they cannot waive their claim to compensation from their employer under the Act. Any arrangement or agreement he makes giving up this right is unlawful and unenforceable to the extent that it relieves anybody of their obligation to make restitution under the Act.

VIII. THE CODE ON SOCIAL SECURITY: OVERVIEW AND KEY FEATURES

Determined to stretch out social security to all employees and workers in the coordinated, chaotic, and different sectors, the Code on Social Security, 2020 is a code to refresh and consolidate the laws relating to social security. The Social Security Code, 2020 expands the scope of social security programs to incorporate the disorderly sector, gig economy, and state employees. These programs incorporate life and disability insurance, well-being and maternity benefits, opportune funds, and opportunities for skill improvement. The legislation combines nine key work laws that address social security. The Workers' Fortunate Funds and Different Provisions Act, 1952; the Employees' State Insurance Act, 1948; and the Maternity Advantage Act, 1961 are completely consolidated and supplanted by the Code on Social Security, a comprehensive statute enacted by the Indian Parliament in 2020. All Indian employees, including those in the informal sector, are intended to have universal social security coverage under the Code.

There are numerous significant clauses in the Social Security Law, including:

- **Definition of "employee"**: According to the Code, an "employee" is anybody working in any kind of economic activity, whether or not they are being paid for it. This definition covers platform employees, gig workers, and self-employed people.
- **Creation of a social security fund**: The Code creates a fund for social security that will pay for a variety of benefits, including maternity, disability, and old age pensions. Contributions from businesses, workers, and the government will be used to support the fund.

- **Universal social security coverage:** The Code intends to give all Indian employees, including those employed in the informal sector, universal social security coverage. Moreover, it calls for the creation of a National Social Security Board to supervise the execution of social security plans and regulations.
- **Social Security benefits for gig and platform employees:** are provided under the Code. These benefits incorporate life and disability insurance, well-being and maternity benefits, and advanced age security.
- **Portability of benefits:** The Code allows for the transfer of social security benefits from one employer to another or from one state to another.

The expression "Social Security" refers to a sort of insurance given by a society to suitable organizations against specific dangers to which its members are subject²². The overall idea driving social security is that a resident who has added to or is probably going to add to the government assistance of his nation should be safeguarded against specific risks like sickness, maternity, advanced age, passing, and so forth, to which he is exposed either in his functioning life or as a result of it. ILO has expanded the scope of social security and introduced a new dimension to its growth and development on a global scale via its conventions and recommendations. The concepts and normal standards on Social Security are remembered for the ILO's 1944 proposal on Pay Security, Clinical Consideration, and Social Security, as well as the Social Security (Least Standard) Show supported in 1952. By and large, the Code on Social Security, 2020, adheres to these values. It is a synthesis of nine Social Security-related Statutes. The Code's purpose is to offer social security to all employees and workers concerning issues connected with or accidental to social security, regardless of whether they work in the coordinated, chaotic, or some other sector²³. The Code's provisions on Business' Risk for Compensation, Compensation Sum, and Compensation Distribution are substantially practically identical to those of the Act and were at that point shrouded in the first section. The next chapter will examine any modifications made to the Code as a result of these provisions. This chapter covers rules relating to the recently adopted under "Competent Authority".

"Competent authority" is defined in **Section 2 (16)** of the Code as "any authority appointed under **Section 58 for Chapter V**, or notified for **Chapter VI**, or appointed under **Section 91** for Chapter VII, as the case may be, as competent authority." The section of the Code that specifically addresses employee remuneration is **Chapter VII**. As per **Section 90** of the Code,

²²International Labour Organization (2019). Social security

²³The Code on Social Security, 2020, Act No. 36 of 2020, India Code. (2020).

if a dispute arises during any proceedings under Section **VII** concerning a party's commitment to pay compensation (which includes any dispute in regards to regardless of whether the harmed party was an employee) or in regards to the sum or term of compensation (which includes any dispute in regards to the sort or level of disability), the dispute shall absent a settlement understanding, be resolved by an equipped power. As per sub-section (2), no respectful court shall conclude any matter or answer any inquiry that part **VII** specifies must be taken care of by a capable power. Overall, the Code on Social Security is an important step toward ensuring that all Indian employees get complete social security coverage and has the potential to enhance millions of people's lives and general well-being.

IX. POSITIVE AND NEGATIVE CHANGES BROUGHT ABOUT BY THE CODE ON SOCIAL SECURITY

Positive and unfavorable developments have been brought about through the Social Security Code. These are a few instances:

Positive Changes

- ***Universalization of social security:*** Unlike in the past, the Code aspires to make social security benefits available to all employees, even those in the unorganized sector.
- ***Laws are consolidated:*** The Code combines several social security regulations into a single, comprehensive legislation, making it simpler for both employers and workers to comprehend and abide by the rules.
- ***Benefit portability:*** Formerly, employees couldn't take their social security benefits with them when they changed employment or residences. This is now possible thanks to the Code.
- ***Extended maternity benefits:*** The Code extends maternity leave for a longer period and adds a rule allowing nursing moms to work from home.
- ***Creation of Social Security Funds:*** Under the Code, unorganized employees will have access to social security funds that will help pay for benefits including maternity pay, life insurance, and disability insurance.

Negative Changes

- ***Decreased employer contribution:*** The Code decrements the employer's share of contributions to social security plans, which can result in reduced benefits for employees.

- **Privatization of social security:** The Code permits the participation of commercial organizations in the provision of social security benefits, which might result in the commodification of social security and a move away from collective social protection toward individual-based coverage.
- **Ambiguity in definitions:** The Code uses phrases like "gig worker" and "platform worker" without providing a clear explanation, which might cause misunderstanding and disagreements in the future.

X. COMPENSATION FOR FIXED DEATH AND PERMANENT TOTAL DISABILITY: SECTION OF THE EMPLOYEES COMPENSATION ACT, 1923, AND CURRENT AMOUNTS

The Employee's Compensation Act of 1923 states that the employee's month-to-month salary decides how much compensation is expected in case of fixed passing and complete long-lasting disability. As expected, IV of the Act, how much compensation payable in case of a proper passing is equivalent to half of the employee's month-to-month salary duplicated by the material factor. The lowest and highest amounts of compensation for fixed deaths are respectively Rs. 80,000 and Rs. 10 lakhs. As expected, IV of the Act, how much compensation payable in cases of long-lasting total disability is equivalent to 60% of the employee's month-to-month salary duplicated by the material factor. The lowest and highest compensation amounts for complete and permanent disability are respectively Rs. 90,000 and Rs. 1 lakh. It is important to remember that since the Act's passage, these compensation levels have not been altered. Nevertheless, the government may periodically update these sums by amending the Act or by introducing new regulations and notices.

A. Dependents and Section 2(1) (d) of the Employees' Compensation Act, 1923

A dependent is a member of an employee's family who is entitled to compensation under The Employee's Compensation Act of 1923 if the employee passes away or becomes permanently disabled as a result of an occupational accident.

Section 2(1) (d) of the act defines "dependent" as:

"Any of the accompanying relatives of a deceased employee, specifically:

- A widow, a minor real or took on son, an unmarried genuine or embraced little girl, or a mother who has lost both of her spouses;
- a son or girl who has arrived at the age of eighteen and who is sick, if they were dependent on the employee's pay at the hour of his demise, and

- iii. If totally or partially reliant on the employee's income at the time of his death,
- a) the single man,
 - b) a parent a bereft, other than a mother,
 - c) an unmarried ill-conceived little girl, an unmarried ill-conceived son, a wedded minor ill-conceived girl, a bereaved minor ill-conceived girl
 - d) a more youthful sibling who is not hitched or who is a widow, on the off chance that she is more youthful;
 - e) a bereft in-regulation little girl
 - f) A minor son of a dead dad,
 - g) a minor youngster of a dead little girl who has no living parents; or
 - h) A fatherly grandparent if the employee doesn't have any living parents.

As a result, any of the previously mentioned relatives who were totally or to some degree dependent on the dead employee's pay at the hour of his or her passing are considered dependents and fit the bill for compensation under the act.

B. Distribution of Compensation: Section 8 of the Employees' Compensation Act, 1923

The distribution of compensation in case of an employee's passing is covered under Section 8 of the Employee's Compensation Act, 1923. According to the clause, if an employee passes away as a consequence of an accident that occurred while he was working; his dependents or legal representatives would get the compensation. The dependents of the dead workman or his legal representatives will receive the compensation provided under this Act in the following order of preference:

- To any child or children of the dead worker who was born after his death, as well as to the widow, widower, and children of the deceased worker;
- To his parents if the dead worker had no surviving spouse, widower, child, or children as described above;
- If the dead worker had no surviving spouse, widower, children, kid or children, or parents, he shall be obligated to his siblings, sisters, and any other dependents.

If there are many dependents in a category, the compensation will be split among them in the manner that the Commissioner deems appropriate given the circumstances. The business must deposit the compensation with the Commissioner, who will regard maybe it as an installment due under this Act if the Commissioner thinks that the dead workman had no dependents or

legal representatives.

XI. CASE LAWS

- **Employees' State Insurance Partnership v. Peak Designing Pvt. Ltd. (2014)**: The Supreme Court decided in this case that an employee who sustains a physical issue while at work is qualified for benefits under the Employees' State Insurance Act of 1948 as well as compensation under the Employees' Compensation Act, 1923²⁴.
- **The Punjab and Haryana High Court ruled in Mukesh Kumar v. State of Haryana (2013)** that the Workers' Compensation Act, 1923 is social welfare law and must be read liberally in the worker's favor²⁵.
- **Shamlal Vishwakarma v. Indian Iron & Steel Co. Ltd. (2011)**: In this instance, the Supreme Court ruled that even if an employee sustains an accident as a result of his fault, the employer is nevertheless obligated to provide compensation under the terms of the Workers' Compensation Act, 1923²⁶.
- **In the 2009 case of K.A. Nagamani v. United India Insurance Co. Ltd.**, the Karnataka High Court ruled that dependents of a dead employee are entitled to benefits under the Workers' Compensation Act, 1923, even if the employee passed away as a result of his fault²⁷.
- **In the case of Tamil Nadu State Transport Corporation (Madurai) Ltd. v. R. Subramanian (2004)**, the Supreme Court ruled that prospects for the employee should be taken into consideration while determining pay under the Workers' Compensation Act, 1923²⁸.
- **Hindustan Steel Ltd. v. Prabhat Kumar Bose (1979)**: In this case, the Supreme Court ruled that the Workers' Compensation Act, 1923, covers all aspects of compensation and that an employee cannot make any further claims for damages²⁹.
- **Sushila bai v. Oriental Insurance Co. Ltd. (2003)**: In this case, the Bombay High Court determined that an employer is only obligated to provide benefits under the Workers' Compensation Act of 1923 if an employee sustains an injury while doing work-related duties³⁰.
- **Nanu Ram v. Magma General Insurance Co. Ltd. (2018)**: The Code on Social Security, 2020 was adopted in this case, according to the Supreme Court, to provide a comprehensive social security system for all Indian employees, including those in the informal

²⁴Employees' State Insurance Corporation v. Apex Engineering Pvt. Ltd. (2014): AIR 2014 SC 697

²⁵Mukesh Kumar v. State of Haryana (2013): (2013) 129 DRJ 100

²⁶Indian Iron and Steel Co. Ltd. v. Shamlal Vishwakarma (2011): AIR 2011 SC 2275

²⁷K.A. Nagamani v. United India Insurance Co. Ltd. (2009): ILR 2009 KAR 3345

²⁸Tamil Nadu State Transport Corporation (Madurai) Ltd. v. R. Subramanian (2004): AIR 2005 SC 128

²⁹Hindustan Steel Ltd. v. Prabhat Kumar Bose (1979): AIR 1979 SC 189

³⁰Sushila bai v. Oriental Insurance Co. Ltd. (2003): 2003 (2) MhLj 670

sector. In addition, the Court ruled that the Code should be applied in a way that is advantageous to the employees and upholds their rights³¹.

XII. CONCLUSION AND SUGGESTIONS

In conclusion, two crucial pieces of law that guarantee the well-being of Indian employees are the Workers' Compensation Act of 1923 and the Code on Social Security. By giving employees financial stability and protection in the event of work-related illnesses or accidents, they have significantly improved the lives of workers. Moreover, the Acts have included provisions for social security programs like healthcare, insurance, and pensions, which are essential for enhancing the general well-being of employees and their families. Nonetheless, there is still an opportunity for improvement in how these Acts are put into practice. Many employees, particularly those in the unorganized sector, continue to be uninsured under social security programs. To make sure that all employees are aware of their rights and benefits under these Acts, further outreach and education initiatives are required. In addition, the Workers' Compensation Act of 1923's pay levels needs to be raised to reflect the growing cost of living and the evolving structure of the labor market. To ensure that companies take their obligations to employees seriously, the government should also think about stiffening the penalty for breaking these Acts. In conclusion, two significant pieces of legislation that have improved the lives of employees in India are the Workers' Compensation Act of 1923 and the Code on Social Security. To guarantee that all employees are covered and that the compensation rates and fines are updated to reflect the evolving nature of the workplace, however, more work has to be done. Under a single statute, employees may only get salary or benefits.

³¹ Magma General Insurance Co. Ltd. v. Nanu Ram (2018): (2018) 18 SCC 130

XIII. REFERENCES

1. Merriam-Webster Dictionary. (Nod). Compensation.
2. Shobha & Ors. Vs. Vithalarao Shinde Sahakari Sakhar Karkhana Ltd. & Ors. (2022 Live law SC 271).
3. Employees' State Insurance Act, 1948. Available at: <https://www.esic.nic.in/esi-act-rules>
4. Gupta, S. C. (2018). Labour and Industrial Laws. New Delhi: Kamal Publishers.
5. Raj Kumar vs. Ajay Kumar, AIR 2000 HP 16. Available at: <https://indiankanoon.org/doc/1652648/>
6. The Employee's Compensation (Amendment) Act, 2009. Available at: <https://www.indiacode.nic.in/bitstream/123456789/2151/1/A1923-08.pdf>
7. Ministry of Labour and Employment. (Nod). The Employee's Compensation Act, 1923. Retrieved from <https://labour.gov.in/sites/default/files/acts/TheEmployeesCompensationAct1923.pdf>
8. The Employee's Compensation Act, 1923. Available at: <https://www.indiacode.nic.in/bitstream/123456789/2151/1/A1923-08.pdf>
9. Ministry of Labour and Employment. (Nod). Employees State Insurance Act, 1948. Retrieved from <https://www.esic.nic.in/esi-act-rules>
10. The Employee's Compensation (Amendment) Act, 2020. Available at: <https://prsindia.org/billtrack/the-employees-compensation-amendment-bill-2020>
11. Indian News Chronicle v. Mrs. Lazarus, AIR 1963 SC 974
12. Section 3 of the Employee's Compensation Act, 1923
13. Sungarbai v. Ordinance Factory, AIR 1968 MP 267
14. BaiShakri v. New Manekchowk Mills Co., AIR 1960 SC 661
15. RavuriKotayya v. DasariNagavardhanamma, AIR 1966 SC 135
16. Sri Jayaram Motor Service v. Pitchammal, (1970) 1 LLJ 417 Mad
17. Saurashtra Salt Manufacturing Co. v. Bai Vala Raju, AIR 1958 SC 881
18. R.B. Moondra Et Co. vs. Mst. Bhanwari, AIR 1957 Raj 144
19. Devidayal Ralyaram vs. Secretary of State, AIR 1939 Nag 225

20. Indian Law of Torts by Dr. R.K. Bangia, 28th Edition, p. 526-527
21. International Labour Organization. (2019). Social security. Retrieved from <https://www.ilo.org/global/topics/social-security/lang--en/index.htm>
22. The Code on Social Security, 2020, Act No. 36 of 2020, India Code. (2020). Retrieved from <https://www.indiacode.nic.in/bitstream/123456789/2520/1/202036.pdf>
23. Employees' State Insurance Corporation v. Apex Engineering Pvt. Ltd. (2014): AIR 2014 SC 697
24. Mukesh Kumar v. State of Haryana (2013): (2013) 129 DRJ 100
25. Indian Iron and Steel Co. Ltd. v. Shamlal Vishwakarma (2011): AIR 2011 SC 2275
26. K.A. Nagamani v. United India Insurance Co. Ltd. (2009): ILR 2009 KAR 3345
27. Tamil Nadu State Transport Corporation (Madurai) Ltd. v. R. Subramanian (2004): AIR 2005 SC 128
28. Hindustan Steel Ltd. v. Prabhat Kumar Bose (1979): AIR 1979 SC 189
29. Sushila bai v. Oriental Insurance Co. Ltd. (2003): 2003 (2) MhLj 670
30. Magma General Insurance Co. Ltd. v. Nanu Ram (2018): (2018) 18 SCC 130
