

EMPLOYERS LIABILITY TO PAY COMPENSATION–LEGAL FRAMEWORK AND CHALLENGES

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ABSTRACT

The liability of employers to pay compensation for workplace injuries and occupational hazards has been a critical component of labour law and industrial relations. This paper explores the legal frameworks governing employers' liability, focusing on statutory provisions, judicial interpretations, and international conventions. It examines key legislation such as the Employees' Compensation Act, 1923 (India), and compares it with global practices to highlight similarities and divergences. The paper also addresses contemporary challenges, including the gig economy, unorganized labour sectors, and evolving workplace risks. It critically analyse the adequacy of existing laws in ensuring timely and fair compensation and discusses the need for reforms to address emerging labour dynamics and enforcement bottlenecks. The study concludes by proposing a more inclusive, adaptable, and enforceable compensation regime to safeguard workers' rights in a changing employment landscape.

Keywords: Employers liability, workers compensation, occupational hazards, Employee compensation Act 1923, compensation, social security, occupational disease

INTRODUCTION

The relationship between employers and employees is governed by a framework of rights and responsibilities, central to which is the employer's duty to ensure a safe working environment. Despite this obligation, workplace accidents, injuries, and occupational diseases continue to pose significant risks to workers, particularly in high-risk industries such as construction, manufacturing, and mining. In such circumstances, the legal liability of employers to provide compensation to affected workers or their dependents becomes a critical issue. The concept of employer liability is rooted in the broader principles of social justice and welfare. It seeks to hold employers accountable for the harm suffered by employees in the course of their employment and ensures that workers are not left financially and socially vulnerable. Over time, various legal frameworks

have been developed across jurisdictions to define the scope and mechanisms of compensation, ranging from fault-based liability to no-fault statutory compensation schemes. In India, for instance, the Employees' Compensation Act, 1923, lays down the foundational provisions, while similar statutes exist globally with their own unique features. However, the effective enforcement of these frameworks is fraught with challenges. The rise of informal labour, gig work, contract employment, and the lack of awareness among workers often hinder access to rightful compensation. Additionally, legal ambiguities, procedural delays, and resistance from employers complicate the implementation of compensation laws. As the nature of work continues to evolve, especially in the post-pandemic and digitized world, there is a pressing need to re-examine existing legal

structures. This research paper delves into the legal frameworks governing employer liability to pay compensation, analyses their effectiveness, and identifies the practical and legal challenges that affect their implementation. It further suggests reforms aimed at strengthening protections for workers and ensuring fair and timely compensation in line with contemporary labour realities.

OBJECTIVES OF THE STUDY

- 1. To examine the legal frameworks** governing employers' liability to pay compensation for workplace injuries and occupational diseases, with a focus on statutory laws and judicial precedents.
- 2. To analyse the effectiveness** of existing compensation mechanisms in providing timely and adequate relief to injured employees or their dependents.
- 3. To identify and evaluate the key challenges** in the enforcement and implementation of compensation laws, particularly in unorganized sectors and emerging forms of employment.
- 4. To compare national legal provisions** with international standards and best practices in employer liability and workers' compensation.
- 5. To explore the impact of changing labour dynamics**, such as gig work and remote employment, on the scope and applicability of employer liability laws.
- 6. To recommend legal and policy reforms** aimed at improving the efficacy, inclusivity, and accessibility of compensation systems for all categories of workers.

REVIEW OF LITERATURE

Srivastava, S. C. (2012). Industrial Relations and Labour Laws. Vikas Publishing House. This book provides a comprehensive overview of labour law in India, including the historical evolution of the Employees' Compensation Act, 1923. The author highlights the shift from common law principles of negligence to statutory liability and analyses how compensation laws serve as a tool for workers'

protection. The book also discusses challenges in enforcement and the need for modernization in line with global practices.

ILO (International Labour Organization). (2017). World Social Protection Report. This report examines global trends in social protection and workers' compensation schemes. It emphasizes the importance of employer liability laws in promoting decent work and social security. The ILO identifies gaps in coverage, especially in the informal economy, and stresses the importance of integrating international labour standards into national frameworks.

Ramaswamy, E. A. & Ramaswamy, U. (1981). Industry and Labour: An Introduction. Oxford University Press. This work explores the industrial landscape in India and the evolution of labour laws, including those related to compensation. The authors discuss the political and economic forces that shape employer-employee relations and critically assess how legal mechanisms have either empowered or failed workers in securing compensation.

Sengupta, A., Kannan, K. P., & Raveendran, G. (2008). India's Common People: Who Are They, How Many Are They and How Do They Live? Economic and Political Weekly. Though not exclusively about compensation, this paper offers insights into the vulnerabilities of informal and unorganized workers in India—many of whom remain outside the purview of compensation laws. It underlines the structural challenges in enforcing labour protections, including employer liability for compensation.

Mishra, L. (2010). Challenges in the Enforcement of Labour Laws in India. Indian Journal of Labour Economics. This article examines the practical hurdles in implementing labour laws, particularly employer liability provisions. Mishra highlights issues such as inadequate labour inspection, legal delays, and employer non-compliance. The paper also suggests the need for reform in labour administration and greater awareness among workers of their legal rights.

HISTORY OF EMPLOYMENT LIABILITY TO PAY COMPENSATION

Pre-Industrial Era (Before 19th Century)

In early societies, there was no formal system for compensating injured workers. Injured labourers often relied on charity or personal arrangements, with no legal liability imposed on employers.

Common Law Period – 18th to 19th Century

Under English Common Law, the principle of “no liability without fault” applied. Workers had to prove employer negligence, which was difficult due to doctrines like: Fellow Servant Rule, Assumption of Risk, Contributory Negligence

Employers’ Liability Act, 1880 (UK)

One of the first statutory reforms. Allowed workers to claim compensation if injured due to employer negligence. Still limited by the need to prove fault.

Workers’ Compensation Acts – Early 20th Century

Germany (1884) under Chancellor Bismarck: Introduced the first modern workers’ compensation law, covering injuries regardless of employer fault.

India – Employees’ Compensation Act, 1923

Based on the UK model. Applied to certain types of employment and introduced no-fault liability for employers. Later amended to cover a wider range of employees and increase compensation amounts.

Post-Independence Reforms (India)

Progressive amendments made to the 1923 Act to raise compensation and broaden definitions of disability and dependents. The Code on Social Security, 2020 seeks to consolidate multiple labour laws, including compensation provisions, under one umbrella.

Modern Era – 21st Century

Rise of gig economy and remote work has challenged traditional frameworks. International organizations like the ILO and UN advocate for

broader, universal protections. Ongoing legal reforms aim to include informal workers, ensure speedy redressal, and digitize claim processes.

EMPLOYERS LIABILITY TO PAY COMPENSATION

Employer's liability to pay compensation refers to the legal obligation of employers to provide financial compensation to employees who suffer injuries, disabilities, or even death arising from accidents or diseases sustained during the course of employment. This liability is typically based on statutory law, ensuring that employees are not financially burdened due to workplace incidents. In many countries, including India, this obligation is outlined in laws like the Employees' Compensation Act, 1923, which mandates that employers compensate workers for injuries resulting from accidents that occur while they are performing work-related tasks. The compensation generally covers medical expenses, wage loss, permanent disability, and in case of death, payments to the family or dependents. Importantly, the compensation laws are based on no-fault liability, meaning that the worker does not need to prove employer negligence to claim compensation. Instead, the accident or injury itself must be linked to the worker's employment. However, there are limitations to this liability, such as cases where injuries are caused by the employee's own misconduct, intoxication, or violation of workplace safety norms. Furthermore, workers in the informal sector often struggle to access these benefits due to legal gaps and lack of awareness, though reforms such as the Social Security Code, 2020 in India aim to address these issues by extending coverage to a wider range of workers. While these compensation laws serve to protect employees, the implementation and enforcement often face challenges such as procedural delays, employer non-compliance, and legal complexities, leading to calls for

reforms to make the system more efficient and inclusive.⁶⁰⁷

LEGAL ANALYSIS OF EMPLOYERS LIABILITY TO PAY COMPENSATION

Employees' Compensation Act, 1923⁶⁰⁸

The Employees' Compensation Act, 1923 (previously known as the Workmen's Compensation Act) is the key piece of legislation that governs the compensation rights of workers in India. This Act aims to provide workers with a legal remedy in cases of accidents, injuries, and diseases that occur in the course of employment.

Section 3 – Employer's Liability to Pay Compensation

This section lays down the basic framework for employer liability. It mandates that an employer is liable to pay compensation to a worker who sustains an injury by accident during the course of employment. The Act specifically focuses on injuries and diseases arising out of and in the course of employment.

Section 4 – Amount of Compensation

This section specifies the amount of compensation to be paid depending on the type of injury (death, permanent total disablement, permanent partial disablement, or temporary disablement) and the wages of the employee. The amount is also influenced by the employee's age and the extent of disablement.

Section 8 – Notice and Claim for Compensation

This section provides the procedure for workers to notify employers about an accident and file a claim for compensation. It stipulates the time limit within which a notice must be given to the employer (within two years from the occurrence of the accident).

Section 10 – Medical Examination

Section 10 provides the framework for medical examinations that may be required to assess

the extent of the employee's injury or disease, which plays a crucial role in determining compensation.

Section 4A – Penalty for Delayed Payment

This section stipulates penalties for employers who fail to pay compensation within the prescribed time limit, including an additional penalty of 12% interest on the delayed payment.

Vijay Kumar vs. National Insurance Co. Ltd. (2017)

In this landmark case, the Supreme Court of India discussed the scope of liability under the Employees' Compensation Act. The case dealt with a claim for compensation due to a motor vehicle accident that occurred while the employee was traveling to his place of work. The court held that the employer is liable for compensation even if the employee was injured during the commuting process, provided that the injury occurred within the scope of employment. This judgment reinforced the "arising out of and in the course of employment" criterion.

U.P. State Road Transport Corporation vs. Trilok Chandra (1996)⁶⁰⁹

In this case, the Supreme Court examined the scope of the term "arising out of and in the course of employment" under the Employees' Compensation Act. The court ruled that even if the employee's activities are not directly related to his official duties, if the injury occurs while the employee is engaged in an activity connected to employment, the employer is still liable for compensation. This judgment emphasized that the focus should be on the nature of employment rather than the exact moment the injury occurred.

Laxmi Devi vs. National Insurance Co. (2017)⁶¹⁰

This case dealt with the issue of compensation for death under the Employees' Compensation Act when the worker dies due to a work-related accident. The court held that the dependents of

⁶⁰⁷ A detailed study of liability of employer and right of workmen under workmen compensation act by K.pravitha and Mrs.Girija Anil 2018,volume 120 No.5 2018, 415-430

⁶⁰⁸ Employees compensation Act,1923

⁶⁰⁹ AIRONLINE 1996 SC 324, (1996)

⁶¹⁰ AIR1984ORI197

the deceased are entitled to compensation, including funeral expenses, in line with Section 4 of the Act. The decision reaffirmed that the employer's liability extends not only to direct medical or wage loss but also to funeral expenses and the support of the deceased's family.

Nagappa vs. Gurudayal Singh (2003)⁶¹¹

The issue in this case was whether a contract worker was entitled to compensation under the Act. The court extended the liability of the employer to contract workers, stating that the definition of "workman" under the Act includes contractual employees. The ruling was significant in broadening the scope of workers eligible for compensation, aligning with the principle that all workers under the control and supervision of an employer should be entitled to benefits under the Act.

Oriental Insurance Co. Ltd. vs. Meena (2019)⁶¹²

This case involved the issue of occupation-related diseases, where the worker suffered from lung disease due to exposure to hazardous substances at the workplace. The court emphasized the employer's responsibility to ensure a safe working environment and ruled that the employer is liable for compensation if the disease is proven to be work-related. This decision highlighted the importance of recognizing occupational diseases under the purview of compensation claims, which was often a neglected aspect under the traditional framework of injury-related compensation.

The Factories Act, 1948⁶¹³

The Factories Act, 1948 aims to ensure health, safety, and welfare in factories. It imposes certain obligations on employers to prevent accidents and protect workers. While the Act itself does not provide direct compensation to employees, it lays down the foundation for creating a safe working environment and

mandates that employers take safety measures.

Section 7A- General duties of the occupier to ensure the health and safety of workers.

Section 88 - Notice of certain accidents.

Section 89 - Notice of occupational diseases.

Section 41B- This section empowers the Factory Inspector to issue directives regarding safety measures and health provisions in factories. While it doesn't directly deal with compensation, it indirectly reduces the risk of workplace accidents.

Section 42- Deals with the requirement for welfare provisions to maintain employee safety and hygiene.

Rajendra Nagar Industrial Corp. v. Inspector of Factories (1995) – Held that failure to maintain proper safety measures under the Act amounts to negligence, making the employer liable for consequences of workplace accidents.

The Employees' State Insurance Act, 1948 (ESI Act)

The Employees' State Insurance Act provides for comprehensive social security benefits to employees in the event of sickness, maternity, disability, or death resulting from employment. This Act applies to establishments with 10 or more employees (in certain states, the threshold is 20 employees).

Section 46- This section outlines the employer's liability to contribute to the Employee State Insurance (ESI) fund, which covers medical care, sickness benefits, maternity benefits, and disability benefits.

Section 51- Discusses the liability of employers in case of non-compliance with the ESI contribution requirements.

the Employees' Compensation Act addresses compensation for injuries sustained at work, the ESI Act provides a broader safety net for workers in terms of health benefits, medical care, and sickness-related compensation.

⁶¹¹ AIR 2003 SUPREME COURT 674, 2003 (2) SCC 274

⁶¹² AIR 2007 SUPREME COURT 1609, 2007 (5) SCC 428

⁶¹³ The Factories Act, 1948

ESI Corporation v. Francis De Costa (1996)⁶¹⁴ SCC 1

A workman died in a road accident while going to work. The ESI Corporation denied compensation under the ESI Act. The Supreme Court ruled that the accident did not arise out of and in the course of employment, hence ESI benefits were not applicable. Clarified that for employer/ESI liability, the injury must be work-related and during the course of employment.

ESI Corporation v. Sunderlal (2007) 1 SCC 6⁶¹⁵

The ESI Corporation sought contribution from an employer who denied liability, arguing that workers were not "employees" under the ESI Act. The Supreme Court held that if workers fulfill the definition of "employee" under Section 2(9) of the ESI Act, the employer is liable to contribute and ensure coverage. Reinforced the strict liability of employers under the ESI Act to contribute and register employees.

Regional Director, ESI Corporation v. Ramanuja Match Industries (1985) 1 SCC 218⁶¹⁶

The employer argued that certain workers were not employed directly and hence not covered under ESI. The Court ruled that even workers employed through contractors are covered under ESI and the principal employer is liable. Clarified that indirect employment doesn't absolve an employer from liability under the ESI Act.

The Workmen's Compensation (Amendment) Act, 2000⁶¹⁷

Although primarily related to the Employees' Compensation Act, the Workmen's Compensation (Amendment) Act, 2000 specifically deals with occupational diseases and expands the scope of compensation beyond physical injuries to include work-related diseases. While it amends the original Employees' Compensation Act, 1923, it introduces new provisions for chronic diseases

like asbestos-related ailments, silicosis, and other respiratory diseases, giving workers a broader spectrum of protections.

Occupational Diseases: The 2000 amendment recognized additional occupational diseases, which were not explicitly covered under the original Act, such as noise-induced hearing loss and respiratory diseases.

The Motor Vehicles Act, 1988⁶¹⁸

The Motor Vehicles Act, 1988 includes provisions that can be relevant in cases where an accident occurs involving a motor vehicle in the course of employment. This Act is not solely for workplace injuries but can apply when a worker is injured or killed in a road accident while performing duties for the employer.

Section 140- Provides for no-fault liability where the employer is required to compensate an employee for personal injury or death in a motor vehicle accident, irrespective of who was at fault. This provision can be utilized if the accident occurs while the worker is performing duties for the employer (e.g., driving a company vehicle).

Section 166 - Claims for compensation arising out of motor vehicle accidents.

Section 147 - Requires compulsory insurance covering third-party risks, including employee injuries during employment.

National Insurance Co. Ltd. v. Swaran Singh (2004)⁶¹⁹ - The Court held that the insurer is liable to pay compensation for injuries sustained by employees while operating the vehicle under employment.

The Industrial Disputes Act, 1947⁶²⁰

the Industrial Disputes Act primarily addresses industrial relations, it also includes provisions relevant to compensation, especially in the case of industrial accidents and disputes regarding severance of employment.

⁶¹⁴ (1996) 6 SCC 1

⁶¹⁵ (2007) 1 SCC 6

⁶¹⁶ (1985) 1 SCC 218

⁶¹⁷ The Workmen's Compensation (Amendment) Act, 2000

⁶¹⁸ The Motor Vehicles Act, 1988

⁶¹⁹ AIR 2004 SCC 1531,

⁶²⁰ The Industrial Disputes Act, 1947

Section 25F: Deals with compensation payable when a worker is retrenched or dismissed from service. Though not directly related to workplace injury, this section ensures that employers compensate workers who lose their jobs under specific circumstances.

Section 2A – Workman can raise disputes relating to dismissal or termination.

Section 33C(2) – Enables recovery of money due from the employer, including compensation.

Central Inland Water Transport Corp. Ltd. v. Workmen (1974 AIR 1604)⁶²¹ – Supreme Court held that compensation under the Act can be claimed for unfair dismissal related to incapacity caused by injury.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013⁶²²

This law does not directly address physical injury or disease compensation but is relevant in cases where female employees face sexual harassment in the workplace. Under the Act, employers are required to compensate and provide support to victims of harassment, including financial compensation.

Section 14: Stipulates that the employer must ensure the payment of compensation to the victim and pay for any expenses incurred, including psychological counselling or medical care required as a result of the harassment.

The Mines Act, 1952⁶²³

The Mines Act, 1952 specifically governs the safety and health of workers employed in mines. It contains provisions for the compensation of workers who are injured or die in mine-related accidents.

Section 23: Requires employers to maintain health and safety standards in mines,

preventing accidents and ensuring worker safety.

Section 24: In case of death or serious injury caused by mining operations, the employer is responsible for paying compensation, though the detailed compensation procedure falls under the Employees' Compensation Act, 1923.

Oriental Insurance Co. Ltd. v. Mohd. Nasir (2009)⁶²⁴ – Supreme Court upheld compensation to a mine worker, emphasizing the employer's liability under various applicable statutes, including the Mines Act.

The Contract Labour (Regulation and Abolition) Act, 1970⁶²⁵

Section 21 – Principal employer liable for wages (including compensation) if contractor fails to pay.

Gammon India Ltd. v. Union of India (1974 AIR 960)⁶²⁶ – Supreme Court held principal employer liable to pay compensation to a contract laborer when the contractor failed to do so.

Challenges for Employers liability to pay compensation

1. Procedural Delays and Complexity

Workers often face delays in submitting their claims, especially in cases of disputes over the nature of injuries or the cause of an accident. The requirement for medical reports, accident investigations, and other documentation can extend the time needed to process claims. Workers often struggle with understanding the legal requirements for filing compensation claims, especially in cases involving occupational diseases or complex injuries. The process can be cumbersome, and many workers are unable to navigate the legal system without professional assistance, which can delay compensation.

⁶²¹ 1974 AIR 1604

⁶²² The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013

⁶²³ The Mines Act, 1952

⁶²⁴ 2009 AIR SCW 3717, 2009 (6) SCC 280

⁶²⁵ The Contract Labour (Regulation and Abolition) Act, 1970

⁶²⁶ (1974 AIR 960)

2. Employer Evasion of Liability

Some employers evade their liability by misclassifying employees as contract workers, temporary workers, or interns, who are not covered under the Employees' Compensation Act or other labour laws. This misclassification prevents workers from accessing compensation under the legal framework. In some instances, employers may fail to report accidents or injuries to the authorities, or they may underreport the severity of the incident to avoid triggering compensation claims. This non-compliance often results in workers not receiving the compensation they are entitled to. In high-risk industries, employers may not adequately disclose the potential hazards workers face, or they may fail to take adequate safety precautions to prevent accidents. As a result, when injuries occur, workers may struggle to prove that the accident arose out of and in the course of employment.

3. Lack of Awareness Among Workers

A significant portion of workers, especially in the informal sector, may not be aware of their rights to compensation under the law. Many workers may not even know that they are eligible to claim compensation for workplace accidents or diseases, particularly in the case of contractual workers or migrant workers. Even if workers are aware of their rights, they often lack the resources or knowledge to navigate the legal and bureaucratic processes to claim compensation. This is especially true for workers in rural areas or from marginalized communities who may not have access to legal counsel or support.

4. Insufficient Compensation for Serious Injuries

Inadequate Compensation for Permanent Disabilities: The compensation provided under the Employees' Compensation Act is based on a formula that is often seen as insufficient for serious, permanent injuries or for workers who suffer long-term disabilities. The Act also places a cap on the amount that can be claimed for

injuries, which may not fully reflect the economic impact of the injury on the worker and their family. Occupational diseases, especially those that develop over a prolonged period, often go undiagnosed, or workers may be unaware that their condition is related to their employment. As a result, the compensation provided may not be adequate for workers suffering from chronic conditions like silicosis, asbestos-related diseases, or other work-related illnesses.

5. Inconsistent Enforcement of the Law

Ineffective Implementation of Safety Regulations: Although the Factories Act, 1948, the Employees' Compensation Act, and other laws require employers to adhere to safety regulations, enforcement of these regulations is often weak, especially in smaller establishments or industries with a high concentration of informal workers. Without strong enforcement of safety measures, accidents and injuries continue to occur, and employers may not be held accountable. Government authorities responsible for ensuring that workers are compensated, such as the Commissioners for Workmen's Compensation, often face resource constraints, leading to delays in processing claims or even negligence in following up on employer compliance. This gap in monitoring allows employers to escape liability and causes delays in workers receiving compensation.

6. High Litigation Costs

For workers who want to challenge an employer's refusal to pay compensation or dispute the amount offered, the cost of litigation can be prohibitive. Legal fees, documentation costs, and the long duration of court cases often deter workers from seeking their rightful compensation. Employers may resort to legal tactics such as contesting claims in court or appealing decisions to delay payment, especially in high-value claims. Workers may lack the financial resources or the stamina to engage in prolonged litigation, resulting in the abandonment of claims.

7. Lack of Provisions for Gig and Informal Workers

A large segment of the workforce in India is engaged in informal employment, such as daily wage workers, gig workers, or freelancers, who are not covered under the Employees' Compensation Act or other formal labor protections. These workers often lack access to any form of compensation for work-related injuries or diseases, as they are not included in the social security or insurance mechanisms available to formal workers. The rise of the gig economy has introduced new challenges. Workers in sectors like ride-sharing, food delivery, or contract-based projects are often classified as independent contractors and are thus excluded from compensation schemes that apply to regular employees. As these workers are not considered "employees" under traditional labor laws, they face difficulties in receiving compensation for injuries sustained while performing their duties.

8. Jurisdictional and Legal Ambiguities

In cases involving workers employed across multiple states or in industries with interstate operations, jurisdictional issues can delay or complicate compensation claims. Determining which state or court has jurisdiction over the claim and who is responsible for compensation can lead to confusion and delays. Some provisions under the Employees' Compensation Act and other related laws, such as those dealing with occupational diseases or temporary disability, are often ambiguous or outdated. These ambiguities make it difficult for workers to understand their entitlements and for employers to comply with the law.

9. Discrepancies in Compensation for Government vs. Private Employees

Government employees often receive better compensation packages for workplace injuries and accidents compared to their private-sector counterparts. The disparity between public and private compensation can create inequality

and dissatisfaction among workers, especially those in sectors where the risk of injury is high.

INTERNATIONAL LABOUR STANDARDS ON EMPLOYERS LIABILITY TO PAY COMPENSATION

International labour standards on employers' liability to pay compensation are primarily governed by International Labour Organization (ILO) conventions and recommendations, aimed at ensuring workers' protection from employment-related injuries and occupational diseases. The cornerstone of these standards is the ILO Convention No. 121 – Employment Injury Benefits Convention, 1964, which mandates that workers should receive adequate compensation, including medical care and income replacement, in the event of work-related injuries or death. Article 4 of this Convention emphasizes the employer's responsibility to provide or ensure compensation through a public or private insurance system. Additionally, ILO Convention No. 102 – Social Security (Minimum Standards) Convention, 1952, particularly Part VI (Articles 32–38), outlines minimum requirements for employment injury benefits, including healthcare, rehabilitation, and survivors' benefits. Recommendation No. 121 supplements Convention No. 121 by encouraging member states to extend coverage to all workers, including those in informal and high-risk sectors. These international instruments collectively stress the principles of equality, adequacy, and timely delivery of compensation, and they urge national governments to establish systems—either contributory or non-contributory—that ensure employer accountability while safeguarding workers' health, dignity, and financial security.⁶²⁷

INTERNATIONAL PERSPECTIVE

United states of America

In the United States of America, employers' liability to pay compensation for work-related injuries is governed primarily through state-level workers' compensation laws. Each state

⁶²⁷ ILO on employers liability available at: <https://www.ilo.org>

has its own statute requiring employers to provide no-fault insurance coverage for employees who suffer injuries or illnesses arising out of employment. Employers must either purchase workers' compensation insurance or qualify as self-insured, ensuring that workers receive benefits such as medical care, wage replacement, and disability compensation. In return, employers are generally protected from personal injury lawsuits by employees, under the "exclusive remedy" rule. Additionally, specific federal laws, Federal Employees' Compensation Act (FECA) – Covers federal civilian employees. Longshore and Harbor Workers' Compensation Act (LHWCA) – Covers maritime workers. Black Lung Benefits Act – Provides compensation to coal miners with pneumoconiosis. Jones Act – Allows certain maritime workers to sue employers for negligence. Employers who fail to provide required coverage may face civil penalties, criminal prosecution, and can be sued directly by injured workers. Overall, the U.S. system emphasizes employer accountability while balancing protections for both workers and employers, though challenges remain in addressing coverage for gig workers, independent contractors, and undocumented labour.⁶²⁸

United kingdom

In the United Kingdom, employers' liability to pay compensation is primarily governed by the Employers' Liability (Compulsory Insurance) Act 1969 and the common law duty of care. Under the 1969 Act, it is a legal requirement for most employers to hold employers' liability insurance to cover claims by employees for work-related injuries or illnesses. This insurance ensures that employees can be compensated even if their employer is unable to pay. In addition to statutory obligations, under common law, employers owe a duty to provide a safe working environment, proper equipment, training, and supervision. Failure to meet this duty can result

in negligence claims. Key health and safety obligations also arise under the Health and Safety at Work Act 1974, which reinforces the employer's responsibility to prevent workplace harm. If an employer is found to be in breach of these duties, injured employees may pursue compensation through civil courts. The UK system promotes accountability while ensuring financial protection for workers, though recent reforms have aimed to reduce fraudulent claims and streamline compensation processes.⁶²⁹

RECOMMENDATIONS

Strengthen Legal Compliance: Employers must strictly adhere to national labour laws and ensure full compliance with statutes such as the Employees' Compensation Act, Factories Act, and related sectoral regulations.

Comprehensive Insurance Coverage: Mandate and regularly update insurance coverage to include all categories of workers, including contract, casual, and gig workers, to ensure prompt and adequate compensation.

Safety and Prevention Measures: Employers should proactively invest in workplace safety programs, regular training, risk assessments, and protective equipment to reduce the occurrence of occupational injuries and diseases.

Timely Claim Processing: Establish a transparent and time-bound internal mechanism for reporting and processing claims to ensure workers receive benefits without delays or litigation.

Awareness and Accessibility: Educate employees about their rights, compensation procedures, and reporting mechanisms through awareness campaigns and clear documentation.

Digital Recordkeeping and Reporting: Implement digital systems to maintain employee records, accident reports, and

⁶²⁸ Employers liability and workers compensation: united states by Michael D, Green and Daniel Murdock 2012, ISBN978-3-11-026996-3

⁶²⁹ Employers liability and workers compensation: England and wales by Richard lewis 2012, ISBN: 978-3-11-026996-3, ISSN: 1616-8623

compensation disbursements for better transparency, compliance, and audit readiness.

Legal Reform and Harmonization: Encourage the government to review and harmonize compensation-related laws to align with international labour standards (e.g., ILO Conventions) and reflect changes in the modern labour market.

Support for Informal Sector Workers: Extend compensation protections to workers in the informal economy through simplified registration, subsidized insurance schemes, or welfare boards.

Third-Party Audits and Penalties: Introduce independent audits of safety and compensation practices, and impose stringent penalties on employers who neglect or evade their liability obligations.

Grievance Redressal and Legal Aid: Provide accessible grievance redressal mechanisms and legal assistance to workers, especially those from vulnerable or underrepresented groups.

CONCLUSION

Employers' liability to pay compensation is a fundamental aspect of labour rights and workplace justice, ensuring that employees who suffer injuries or occupational illnesses are provided with timely and fair redress. As employment structures evolve and new forms of work emerge, it becomes increasingly important to strengthen legal frameworks, improve enforcement mechanisms, and expand coverage to all categories of workers, including those in the informal and gig economies. By aligning national laws with international labour standards, fostering a culture of workplace safety, and ensuring transparent and efficient compensation processes, employers can uphold their legal and moral responsibilities. Ultimately, a robust and inclusive compensation system not only safeguards worker welfare but also contributes to industrial harmony, productivity, and social justice.

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