

A DETAILED STUDY ON THE LIABILITY OF THE EMPLOYER TO COMPENSATE THE EMPLOYEE UNDER THE EMPLOYEES' COMPENSATION ACT, 1923

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Abstract

The Employees' Compensation Act, 1923 is one of the foundational social welfare legislations in India, enacted to provide financial protection to employees and their dependents against risks arising from workplace accidents and occupational diseases. This paper presents a comprehensive analysis of the statutory framework governing the liability of employers to compensate employees under the Act. Rooted in the principle of vicarious liability, the legislation imposes a statutory obligation on employers to compensate employees for personal injuries caused by accidents arising out of and in the course of employment, irrespective of fault.

The study examines the essential conditions for claiming compensation under Section 3, including the requirement of personal injury, causal connection between employment and accident, and disability exceeding three days. It further analyses the computation of compensation under Sections 4 and 5, the procedural safeguards under Sections 4A, 7, 8, 9, and 10, and the role of the Commissioner in adjudication. The paper also explores occupational diseases under Schedule III and doctrines such as added peril, contributory negligence, and self-inflicted injury, which limit employer liability in specific circumstances.

Judicial interpretations have significantly shaped the scope of employer liability. Landmark decisions have clarified that employer liability extends even to injuries caused by natural events, third-party acts, and employment-related stress, provided a nexus with employment is established. The paper highlights how courts have adopted a welfare-oriented approach to ensure social justice while balancing reasonable limitations. The study concludes that the Act plays a vital role in strengthening labour welfare by ensuring timely compensation, protecting dependents, and reinforcing the employer's statutory duty. Despite evolving labour reforms, the fundamental principles of employer liability under the Act continue to uphold the objectives of social security and financial protection for employees.

(Keywords: Employees' Compensation Act, 1923, Employer's Liability, Occupational Diseases. Arising out of and in the Course of Employment)

I. Introduction

The Employees' Compensation Act, 1923²⁵²⁰ is one of the earliest social security legislations enacted in India to protect employees from

financial hardship caused by employment-related injuries, occupational diseases, and death. Earlier known as the Workmen's Compensation Act, 1923, it came into force on 1st July 1924. The main objective of the Act is to provide compensation to employees for injuries

²⁵²⁰ Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India

suffered due to accidents arising out of and in the course of employment.

The Act is based on the principle of vicarious liability, under which the employer is held liable to compensate the employee irrespective of whether the employer was personally negligent. This ensures that employees who suffer injury while working are financially protected. It also promotes safety in workplaces and provides relief to dependents of employees in case of death.

Even part-time employees are entitled to benefits if the injury arises during the course of employment. However, certain conditions must be fulfilled to claim compensation.

II. Eligibility for Compensation

To claim compensation under the Act, the following requirements must be fulfilled:

- The person must be an employee of the company or organization.
- The injury must have been caused at the workplace or due to the nature of employment.

Once these conditions are satisfied, the employer becomes liable to compensate the employee.

III. Employer's Liability for Compensation (Section 3)

Section 3 establishes the employer's liability. The employer becomes liable when the following conditions are satisfied:

a. Personal Injury

The employee must have suffered personal injury. Personal injury includes physical injury and occupational diseases. Injury to property is not included.

b. Injury caused by Accident

The injury must result from an accident. An accident is an unexpected and unforeseen event that causes harm.

c. Accident arising out of and in the course of employment

This is the most important condition.

i. Arising out of employment:

There must be a connection between the employment and injury. The injury must result from employment conditions.

ii. In the course of employment:

The injury must occur during working hours, at the workplace, and while performing employment duties.

d. Disability exceeding three days

The employer is liable only if the injury results in disability exceeding three days. Disability may be:

- Temporary
- Permanent partial
- Permanent total

Temporary disability reduces earning capacity temporarily, whereas permanent disability reduces earning capacity permanently.

e. Death of employee

If the injury results in death, compensation must be paid to dependents. Compensation is payable if it is proved that the death occurred due to employment.²⁵²¹

IV. Amount of Compensation (Section 4)

The amount of compensation depends on the nature of injury.

a. Death

In case of death, compensation is: 50% of monthly wages × relevant factor (Schedule IV) OR ₹80,000, whichever is higher.

b. Permanent total disablement

Compensation is: 60% of monthly wages × relevant factor
OR ₹90,000, whichever is higher.

²⁵²¹ Section 3, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

c. Permanent partial disablement

Compensation is calculated proportionately based on loss of earning capacity.²⁵²²

V. Method of Calculating Wages (Section 5)

Compensation is calculated based on monthly wages. Monthly wages mean wages payable per month.²⁵²³

In **Zubeda Bano v. Maharashtra Road Transport Corporation, 1990**²⁵²⁴, the court clarified the method of calculating wages. Allowances such as batta are not included in wages as they are paid for special expenses.

VI. Compensation to be Paid When Due and Penalty (Section 4A)

Compensation must be paid immediately after the accident.

If the employer fails to pay compensation:

- Interest at 12% per annum may be imposed.
- Additional penalty up to 50% may be imposed.

If employer denies liability, provisional payment must be made.²⁵²⁵

VII. Communication and Commutation of Payments (Section 7)

Half-monthly payments may be converted into lump sum by agreement between employer and employee.

If there is no agreement and payments continue for six months, the Commissioner may order lump sum payment.²⁵²⁶

VIII. Distribution of Compensation (Section 8)

In case of death, compensation must be deposited with the Commissioner.

²⁵²² Section 4, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

²⁵²³ Section 5, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

²⁵²⁴ Zubeda Bano v. Maharashtra State Road Transport Corp., 1990 Lab. I.C. 1896 (Bom.).

²⁵²⁵ Section 4A, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

²⁵²⁶ Section 7, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India

Employer cannot directly pay compensation to dependents.

The Commissioner distributes compensation.

Employer may pay advance up to three months wages.

The receipt of the Commissioner is valid discharge of liability.

Special protection is given when compensation is payable to women or persons with legal disability.²⁵²⁷

IX. Compensation Cannot Be Assigned or Attached (Section 9)

Compensation cannot be:

- a. Assigned
- b. Transferred
- c. Attached by court

This ensures compensation reaches the employee.²⁵²⁸

X. Notice and Claims (Section 10)

- a. Employee must give notice of accident.
- b. Without notice, claim may not be entertained.
- c. Delay may be condoned if justified.²⁵²⁹

XI. Principles Governing Compensation

Compensation is payable to dependents such as:

- a. Widow
- b. Minor son
- c. Unmarried daughter
- d. Widowed mother
- e. Widower
- f. Parents
- g. Minor illegitimate children
- h. Minor siblings

²⁵²⁷ Section 8, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

²⁵²⁸ Section 9, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

²⁵²⁹ Section 10, Employees' Compensation Act, No. 8 of 1923, §§ 3–10, India.

- i. Widowed daughter-in-law
- j. Minor grandchildren
- k. Paternal grandparents

This ensures protection of dependents.

XII. Occupational Diseases

- a. Employer is liable for occupational diseases listed in Schedule III.
- b. Schedule III contains Part A, Part B, and Part C.
- c. Part A – Employer liable if disease occurs during employment.
- d. Part B – Employer liable if employee worked at least six months.
- e. Part C – Multiple employers may be liable.
- f. Occupational diseases are treated as employment injuries.

XIII. Doctrine of Added Peril

Under this doctrine, employer is not liable when the employee voluntarily exposes himself to extra risk outside his employment duties.

In **Devidayal Ralyaram v. Secretary of State**, the employee undertook a task outside his duty involving extra danger. The Court held that the employer was not liable because the employee exposed himself to unnecessary risk not connected with his employment.²⁵³⁰

Self-Inflicted Injury

Employer is not liable for self-inflicted injuries. If the injury is caused intentionally by the employee, compensation cannot be claimed.

Contributory Negligence

Employees must take reasonable care while performing duties. If both employer and employee are negligent, the employer is liable only to the extent of his negligence and compensation may be reduced.

Exceptions to Employer's Liability

Employer is not liable when:

- Injury does not cause disability exceeding three days
- Employee was under the influence of alcohol or drugs
- Employee disobeyed safety rules
- Employee removed safety devices

However, employer remains liable in case of death or permanent disability.

Liability of Insurer

Insurance company indemnifies the employer. The insurer pays only the amount covered under the insurance policy.

Adjudication of Compensation

The Commissioner determines compensation, settles disputes, and ensures payment. Compensation is calculated from the date of accident.

Appeals, Review, and Revision

Appeal can be filed within 60 days before the High Court.

Employer must deposit compensation before filing appeal.

In **Mangala Ben v. Dilip Motwani**, the Court held that the claimant must prove that the deceased was an employee. Without proof of employment relationship, compensation cannot be granted.

Review, revision, and writ petitions can also be filed as remedies.

XIV. Effect of Death of Claimant

If the employee dies, compensation must be paid to dependents. Minimum ₹5000 must be paid to the eldest dependent.

XV. Case Laws

National Iron and Steel Co. Ltd. v. Manorama (AIR 1953 Cal 143)

In this case, a boy was employed to supply tea to workers inside a factory. While leaving the factory after completing his duty, police opened

²⁵³⁰ Devidayal Ralyaram v. Sec'y of State, AIR 1928 Sind 138

fire on a crowd and the boy was killed. The employer argued that the death was not related to employment.

The Court held the employer liable because the boy was present at the factory premises due to his employment. His death occurred in the course of employment. The Court stated that even though the injury was caused by police firing, there was a clear connection between employment and death. Therefore, compensation was payable.

This case established that employer is liable even if injury is caused by a third party, provided it arises during employment.²⁵³¹

State of Rajasthan v. Ram Prasad (2001 I LLJ 177 SC)

In this case, the employee died due to lightning while working. The employer argued that lightning is a natural cause and not an employment accident.

The Supreme Court held the employer liable. The Court stated that the employee was exposed to the risk because of his employment. If he had not been working at that place, he would not have died. Therefore, the accident arose out of and in the course of employment.²⁵³²

This case established that natural events like lightning can also be treated as employment accidents.

Savitri Devi v. Bharti Filling Station (2015 I LLJ 662 HP)

In this case, the deceased was employed as a tanker driver. He died due to a heart attack while driving during employment. The employer argued that death was due to natural causes.

The Court held that driving a tanker involves stress and strain, which contributed to the heart attack. The Court stated that even if the employee had a medical condition, employment stress accelerated his death.

Therefore, the employer was held liable.

This case established that heart attack during employment may be treated as employment accident if employment contributed to death.²⁵³³

XVI. Conclusion

The Employees' Compensation Act, 1923 is an important social welfare legislation that protects employees and their dependents from financial hardship caused by workplace accidents and occupational diseases. It imposes a statutory duty on employers to compensate employees for injuries arising out of employment.

The Act ensures timely payment, protects compensation from attachment, and provides remedies through the Commissioner and courts. Judicial decisions have further strengthened employee protection.

Thus, the employer's liability to compensate employees plays a crucial role in ensuring labour welfare, social justice, and financial security for employees and their families.

²⁵³¹ National Iron and Steel Co. Ltd. v. Manorama (AIR 1953 Cal 143)
²⁵³² State of Rajasthan v. Ram Prasad (2001 I LLJ 177 SC)

²⁵³³ Savitri Devi v. Bharti Filling Station (2015 I LLJ 662 HP)