

## LEGAL EVALUATION EMPLOYER’S LIABILITY ON FACTORIES UNDER THE OSH CODE, 2020: A LEGAL EVALUATION

**AUTHOR** – SAVITHA S, STUDENT AT SCHOOL OF EXCELLENCE IN LAW, TNDALU, CHENNAI

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### ABSTRACT

The Occupational Safety, Health and Working Conditions Code, 2020 represents a significant consolidation and reform of India’s labour laws, aiming to streamline and strengthen workplace safety across various sectors, particularly factories. This research critically evaluates the scope and extent of employer liability under the Code, with a focused analysis on statutory duties, compliance requirements, and enforcement mechanisms applicable to factory establishments. The study examines key provisions relating to employer obligations, including the duty to ensure a safe working environment, provision of welfare facilities, risk assessment, and adherence to prescribed safety standards.

Further, the paper analyses the legal consequences of non-compliance, including penalties, offences, and the role of inspectors-cum-facilitators in ensuring accountability. It also explores the extent to which the Code departs from or builds upon the earlier framework under the Factories Act, 1948. Through doctrinal analysis and relevant judicial interpretations, the research identifies practical challenges in implementation, such as lack of awareness, enforcement gaps, and infrastructural deficiencies, which may dilute the effectiveness of employer liability provisions.

The study concludes by assessing whether the OSH Code adequately balances industrial growth with worker protection and suggests reforms to enhance employer accountability and strengthen occupational safety governance in factories.

### Keywords:

Employer Liability, OSH Code 2020, Factory Safety, Labour Law, Occupational Health, Workplace Regulation, compliance, industrial safety.

### INTRODUCTION

The protection of workers health and safety has long been a central concern of labour jurisprudence, particularly in industrial settings such as factories where the risk of accidents and occupational hazards is significantly high. In India, the legal framework governing workplace safety has undergone substantial transformation with the enactment of the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code), which consolidates and rationalizes multiple labour

laws into a single comprehensive legislation. This reform marks a shift towards a more structured and uniform regulatory regime, placing greater emphasis on employer responsibility and accountability in ensuring safe working conditions.

Under the earlier regime, the Factories Act, 1948 served as the primary legislation regulating occupational safety in factories. While it laid down detailed provisions relating to health, safety, and welfare of workers, the fragmented nature of labour laws often led to

inconsistencies in enforcement and compliance. The OSH Code, 2020 seeks to address these gaps by introducing a unified legal framework, thereby redefining the scope and extent of employer liability in factory establishments.

Employer liability under the OSH Code encompasses a wide range of duties, including the provision of a hazard-free work environment, maintenance of safety standards, conduct of risk assessments, and implementation of welfare measures for workers. The Code also introduces mechanisms such as registration of establishments, appointment of safety officers, and the role of Inspector-cum-Facilitators to ensure effective compliance. Importantly, it strengthens the penal framework for non-compliance, thereby reinforcing the legal obligation of employers to adhere to prescribed standards.

However, despite its progressive objectives, the practical implementation of employer liability provisions under the OSH Code raises several concerns. Issues such as lack of awareness among employers and workers, administrative challenges, and potential dilution of stringent safeguards have sparked debates regarding its effectiveness. In this context, a critical legal evaluation becomes necessary to assess whether the Code successfully enhances accountability or merely restructures existing provisions without substantial impact.

This study aims to analyse the nature and extent of employer liability in factories under the OSH Code, 2020, examining key statutory provisions, comparing them with the previous legal framework, and identifying implementation challenges. Through this evaluation, the research seeks to contribute to the broader discourse on occupational safety and the role of law in safeguarding workers' rights in industrial environments.

#### RESEARCH METHODOLOGY

This research adopts a doctrinal (black-letter law) methodology to critically examine

employer's liability in factories under the Occupational Safety, Health and Working Conditions Code, 2020. The study is primarily based on secondary sources of data, focusing on a systematic analysis of statutory provisions, legal principles, and judicial interpretations relevant to occupational safety and employer responsibility. The doctrinal approach enables a detailed examination of the legal framework governing factory safety by interpreting the text of the legislation, rules, and related legal instruments.

The research involves a close reading and analytical study of the provisions of the OSH Code, 2020, particularly those dealing with employer duties, safety standards, welfare measures, and penalties for non-compliance. In addition, a comparative analysis is undertaken with the earlier legal regime under the Factories Act, 1948 to understand the evolution and transformation of employer liability in factory settings. This comparison helps in identifying the continuities, departures, and improvements introduced by the new Code.

Judicial decisions and case laws relating to occupational safety, employer negligence, and industrial accidents are also examined to understand how courts have interpreted and enforced employer obligations. Furthermore, the study relies on commentaries, textbooks, journal articles, government reports, and policy documents to provide a comprehensive understanding of the subject. Relevant reports of law commissions and labour committees are also referred to, wherever necessary.

The methodology is analytical and descriptive in nature, aiming to evaluate the adequacy and effectiveness of the legal provisions. It also identifies gaps and challenges in implementation through critical assessment of existing literature. However, the research is limited to doctrinal analysis and does not include empirical or field-based data. Despite this limitation, the study provides a thorough legal evaluation of employer liability under the OSH Code, 2020 and offers insights for further

reform and development in the area of occupational safety law.

## REVIEW OF LITERATURE

The issue of employer's liability in ensuring occupational safety and health in factories has been widely discussed in legal scholarship, particularly in the context of India's evolving labour law framework. With the enactment of the Occupational Safety, Health and Working Conditions Code, 2020, several scholars have analysed the consolidation of labour laws and its implications for workplace safety. Early commentaries on the Code highlight its objective of simplifying and rationalizing multiple legislations into a unified framework, while also emphasizing the expanded responsibilities placed on employers to maintain safe and healthy working conditions. Authors have generally viewed the Code as a progressive step; however, concerns have been raised regarding the dilution of certain protections and the broad discretionary powers granted to the executive.

A significant body of literature has focused on the earlier regime under the Factories Act, 1948, which historically formed the backbone of occupational safety regulation in India. Scholars such as S.C. Srivastava and P.L. Malik have extensively examined the detailed provisions relating to health, safety, and welfare under the Act, emphasizing the strict liability imposed on employers in hazardous industries. These works provide a foundational understanding of employer obligations and serve as an important reference point for evaluating the changes introduced by the OSH Code, 2020. Comparative analyses in recent journal articles suggest that while the Code retains many core principles, it adopts a more flexible and compliance-based approach.

Further, legal researchers have explored the role of judicial interpretation in shaping employer liability, particularly through landmark decisions addressing industrial accidents, negligence, and strict liability. The influence of principles established in cases like **M.C. Mehta v. Union of**

**India** has been widely discussed, especially in relation to the doctrine of absolute liability and its relevance to hazardous industries. Academic discussions indicate that such judicial doctrines continue to inform the interpretation of statutory duties under modern labour codes, including the OSH Code.

Recent literature also highlights practical challenges in the implementation of occupational safety laws, including inadequate enforcement mechanisms, lack of awareness among workers, and infrastructural deficiencies in factories. Reports by government bodies and labour organizations have pointed out that despite comprehensive legal provisions, the effectiveness of employer liability largely depends on enforcement and compliance at the ground level. Scholars have also critiqued the Inspector-cum-Facilitator system introduced under the OSH Code, questioning whether it may weaken strict regulatory oversight in favour of a facilitative approach.

Overall, the existing literature provides a mixed perspective on employer liability under the OSH Code, 2020. While it acknowledges the Code's intent to modernize and streamline labour regulation, it also underscores the need for stronger enforcement, clearer accountability mechanisms, and greater protection for workers. This body of work forms the basis for a critical legal evaluation of employer liability in factories, identifying both the strengths and limitations of the current legal framework.

## OBJECTIVES OF THE STUDY

- ❖ To examine the concept and scope of employer liability under the Occupational Safety, Health and Working Conditions Code, 2020 in relation to factory establishments.
- ❖ To analyse the statutory duties and obligations imposed on employers to ensure occupational safety, health, and welfare of workers in factories.
- ❖ To study the legal framework governing factory safety under the Factories Act, 1948

and compare it with the provisions of the OSH Code, 2020.

- ❖ To evaluate the effectiveness of safety standards, compliance mechanisms, and risk management measures prescribed under the OSH Code.
- ❖ To assess the role and powers of Inspector-cum-Facilitators in enforcing employer liability and ensuring adherence to safety regulations.
- ❖ To examine the penal provisions, offences, and consequences for non-compliance by employers under the OSH Code, 2020.
- ❖ To identify the practical challenges and implementation gaps in enforcing employer liability in factory settings.
- ❖ To analyse relevant judicial decisions and interpretations relating to employer responsibility and workplace safety.
- ❖ To evaluate whether the OSH Code, 2020 adequately balances industrial growth with the protection of workers' rights and safety.
- ❖ To suggest legal and policy recommendations for strengthening employer accountability and improving occupational safety standards in factories.

### SCOPE OF THE RESEARCH

The scope of this research is confined to a legal evaluation of employer's liability in factory establishments under the Occupational Safety, Health and Working Conditions Code, 2020. The study primarily focuses on analysing the statutory provisions that impose duties and responsibilities on employers to ensure occupational safety, health, and welfare of workers in factories. It covers key aspects such as maintenance of safety standards, provision of welfare facilities, hazard prevention, risk management, and compliance obligations as prescribed under the Code.

The research further extends to a comparative analysis of the legal framework under the Factories Act, 1948 in order to understand the

evolution of employer liability and the changes introduced by the OSH Code, 2020. It examines how far the new Code has retained, modified, or expanded the earlier provisions relating to factory safety and employer accountability.

Additionally, the study includes an examination of enforcement mechanisms, such as the role of Inspector-cum-Facilitators, registration requirements, and compliance procedures, along with the penalties and legal consequences for violations by employers. Relevant judicial decisions and legal principles relating to employer liability and occupational safety are also considered within the scope of this research.

However, the research is limited to a doctrinal and analytical study based on secondary sources, including statutes, case laws, books, and journal articles. It does not involve empirical or field-based investigation of factories or worker conditions. The scope is also restricted to factory establishments and does not extend to other sectors covered under the OSH Code, such as mines, plantations, or construction work, except where necessary for contextual understanding. This study aims to provide a focused legal analysis of employer liability in factories, identifying strengths, limitations, and implementation challenges within the existing legislative framework.

### DEFINITION AND APPLICABILITY UNDER OSH CODE 2020

Under the Occupational Safety, Health and Working Conditions Code, 2020, the term "employer" is broadly defined to include any person who employs one or more workers in an establishment and has ultimate control over the affairs of the factory, including the occupier, manager, or any person named as responsible for supervision and control. This definition expands the scope of liability by ensuring that responsibility is not limited to the owner alone but extends to those who exercise managerial or supervisory authority over the workplace. In the context of factories, the Code incorporates the concept of "occupier," similar to the earlier

Factories Act, 1948, thereby placing primary responsibility for compliance with safety, health, and welfare provisions on the person in control of the factory operations. The applicability of the OSH Code, 2020 extends to all establishments employing ten or more workers where any manufacturing process is carried on with the aid of power, and twenty or more workers where such process is carried on without the aid of power, thereby covering a wide range of factory units across India. The Code applies uniformly across sectors, including factories, and mandates employers to adhere to prescribed standards relating to occupational safety, working conditions, and employee welfare. Thus, the combined definition and applicability provisions under the OSH Code ensure that employer liability is both clearly identified and widely enforceable within factory establishments.

#### **MEANING OF FACTORIES WORKER UNDER OSH CODE, 2020**

Under the Occupational Safety, Health and Working Conditions Code, 2020, a “factory worker” is understood through the definition of “worker” provided in the Code, which broadly includes any person employed, directly or through any agency (including contractors), with or without the knowledge of the employer, to perform any skilled, semi-skilled, or unskilled, manual, operational, supervisory, technical, or clerical work for hire or reward. In the context of factories, this definition covers individuals engaged in manufacturing processes or any work incidental or connected to such processes within a factory establishment. It includes workers employed through contractors, temporary or casual labourers, and even those engaged in ancillary activities such as maintenance, cleaning, or material handling.

The definition is wide enough to ensure that the protection of occupational safety, health, and welfare measures extends to all categories of workers involved in factory operations, irrespective of the nature or duration of employment. However, it generally excludes

persons employed mainly in managerial or administrative capacities, as well as members of the armed forces. By adopting such an inclusive definition, the OSH Code, 2020 seeks to ensure that employer liability is not limited to a narrow class of employees but extends to all individuals who contribute to the functioning of the factory, thereby strengthening workplace protection and accountability.

#### **EMPLOYER’S LIABILITY IN FACTORIES UNDER THE OSH CODE, 2020 – DETAILED ANALYSIS**

##### **DEFINITION OF FACTORY – SECTION 2(W)**

Section 2(w) of the Occupational Safety, Health and Working Conditions Code, 2020 defines a *factory* as any premises where a manufacturing process is carried on with the aid of power employing twenty or more workers, or without power employing forty or more workers. This definition is crucial because it determines the applicability of the Code and the extent of employer liability. The broad interpretation of “manufacturing process” ensures that a wide range of industrial activities are covered, thereby extending legal protection to workers. In *Chintaman Rao v. State of Madhya Pradesh*, the Supreme Court emphasized that labour legislation must be interpreted liberally to achieve its welfare objective, which is equally applicable in understanding the scope of factories under the Code.<sup>1</sup>

##### **EMPLOYER AND OCCUPIER – SECTIONS 2(U) & 2(ZS)**

Under Sections 2(u) and 2(zs), the term *employer* includes the occupier, who is the person having ultimate control over the affairs of the factory. This provision fixes responsibility on a clearly identifiable authority, preventing ambiguity in enforcement. The occupier is held accountable for compliance with all safety and welfare measures, making liability personal and direct. In *J.K. Industries Ltd. v. Chief Inspector of Factories*, the Supreme Court held that the occupier must be a person with real control over the factory’s operations, thereby ensuring

that responsibility cannot be delegated to avoid liability.<sup>2</sup>

### GENERAL DUTIES OF EMPLOYER – SECTION 6

Section 6 forms the backbone of employer liability by imposing a general duty to ensure a safe and healthy working environment. The employer is required to provide hazard-free workplaces, conduct free medical examinations, ensure safe disposal of waste, and maintain overall safety for all persons within the factory premises. The provision reflects a shift from reactive liability to preventive responsibility. In *Consumer Education and Research Centre v. Union of India*, the Supreme Court recognized the right to health and safety of workers as part of Article 21, thereby reinforcing the statutory obligations imposed on employers under labour laws like the OSH Code.<sup>3</sup>

### SPECIFIC DUTIES IN FACTORIES – SECTION 6(2)

Section 6(2) elaborates specific obligations such as providing safe machinery, proper handling and storage of materials, adequate training, supervision, and safe access to workplaces. These duties ensure that safety is embedded in every stage of industrial activity. The provision imposes a standard of *due diligence* on employers, requiring proactive risk management. In *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, the Court introduced the principle of *absolute liability* for hazardous industries, holding that enterprises engaged in dangerous activities are strictly liable for any harm caused, regardless of negligence.<sup>4</sup>

### SECTION 10 – NOTICE OF ACCIDENTS

Section 10 of the Occupational Safety, Health and Working Conditions Code, 2020 imposes a mandatory duty on the employer to report workplace accidents to the prescribed authorities. This includes accidents that result in death or bodily injury preventing a worker from working for 48 hours or more. The purpose of this provision is to ensure immediate governmental awareness, enabling timely investigation and corrective measures to

prevent recurrence. The obligation is strict and failure to comply can result in penalties, thereby increasing the employer's liability. This provision reflects the principle that industrial safety is not merely an internal matter but one of public concern and regulatory oversight. In *Indian Council for Enviro-Legal Action v. Union of India*, the Supreme Court emphasized that non-disclosure of industrial hazards and accidents aggravates liability, highlighting the importance of transparency and reporting in hazardous industries.<sup>5</sup>

### SECTION 11 – NOTICE OF DANGEROUS OCCURRENCES

Section 11 requires employers to report dangerous occurrences, even if no injury is caused. These include incidents such as explosions, gas leaks, structural failures, or any event that has the potential to cause serious harm. This provision is preventive in nature, aiming to identify risks before they result in actual accidents. By mandating reporting of near-miss events, the law promotes a proactive safety culture within factories. Employers are thus required to maintain vigilance and ensure that potential hazards are promptly communicated to authorities. The principle underlying this section is aligned with the doctrine of absolute liability, as recognized in *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, where the Court held that hazardous industries must anticipate and prevent risks, not merely respond after harm occurs.<sup>6</sup>

### SECTION 12 – NOTICE OF OCCUPATIONAL DISEASES

Section 12 mandates that employers report cases where workers contract occupational diseases specified in the Schedule of the Code. These diseases arise due to prolonged exposure to harmful substances or unsafe working conditions, such as chemical exposure, dust inhalation, or toxic fumes. The provision ensures that occupational illnesses are officially recorded, enabling authorities to take preventive and remedial action, including improving workplace conditions and

compensating affected workers. It also reflects the recognition that workplace hazards may have long-term health consequences, extending employer liability beyond immediate accidents. In *Consumer Education and Research Centre v. Union of India*, the Supreme Court held that the right to health and medical care of workers is a fundamental right under Article 21, thereby reinforcing the employer's duty to monitor and report occupational diseases.<sup>7</sup>

### **OCCUPATIONAL SAFETY AND HEALTH STANDARDS – SECTION 18**

Section 18 mandates compliance with safety standards prescribed by the government, including exposure limits, medical examinations, and hazard control measures. This provision standardizes safety practices across industries and ensures uniform protection for workers. It also reflects international labour standards. In *Bandhua Mukti Morcha v. Union of India*, the Supreme Court held that the State must ensure humane working conditions, thereby indirectly placing responsibility on employers to adhere to statutory safety norms.<sup>8</sup>

### **HEALTH, SAFETY AND WORKING CONDITIONS – SECTION 23**

Section 23 imposes detailed obligations relating to cleanliness, ventilation, drinking water, sanitation, and prevention of overcrowding. These provisions recognize that worker safety extends beyond accident prevention to overall well-being. The employer's liability includes maintaining a dignified work environment. In *Occupational Health and Safety Association v. Union of India*, the importance of workplace hygiene and health standards was emphasized as a component of labour welfare.<sup>9</sup>

### **WELFARE MEASURES – SECTION 24**

Section 24 mandates welfare facilities such as washing areas, restrooms, locker rooms, and seating arrangements. These provisions reflect the social welfare objective of labour law and aim to improve the quality of working life. The

employer's obligation extends beyond safety to ensuring comfort and dignity. In *Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.*, the Court highlighted the importance of humane conditions of work in industrial establishments.<sup>10</sup>

### **SAFETY COMMITTEE AND SAFETY OFFICERS – SECTION 22**

Section 22 requires the constitution of safety committees and appointment of safety officers in large or hazardous factories. This provision introduces participatory management in safety matters, allowing workers to have a role in ensuring workplace safety. It strengthens accountability and promotes compliance. In *Bhopal Gas Leak Disaster Case*, the absence of effective safety mechanisms and oversight was identified as a major cause of disaster, underscoring the need for such statutory requirements.<sup>11</sup>

### **LICENSING AND REGULATION OF FACTORIES – SECTION 79**

Section 79 requires prior approval, licensing, and registration of factories. This ensures regulatory oversight before industrial operations begin, thereby preventing unsafe establishments from functioning. It reflects a preventive regulatory approach. The principle of prior scrutiny was emphasized in environmental jurisprudence in *Vellore Citizens Welfare Forum v. Union of India*, where the Court upheld the precautionary principle in industrial regulation.<sup>12</sup>

### **DANGEROUS OPERATIONS AND HAZARDOUS PROCESSES – SECTIONS 82 & 84**

Sections 82 and 84 deal with dangerous operations and hazardous processes, imposing strict obligations on employers to provide protective equipment, conduct medical examinations, and disclose risks to workers and the public. These provisions align with the doctrine of absolute liability and aim to prevent industrial disasters. In *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, the Court held that hazardous industries must ensure the highest standards of safety and are liable for any harm caused.<sup>13</sup>

### **PENALTIES AND LIABILITY – SECTION 113**

Section 113 provides for penalties and empowers courts to order corrective measures in case of violations. Continued non-compliance constitutes a separate offence, thereby increasing the severity of liability. This provision ensures enforcement and deterrence. In *State of Maharashtra v. Syndicate Transport Co.*, the Court emphasized that penal provisions in labour laws are *Chintaman Rao v. State of Madhya Pradesh* essential for effective enforcement.<sup>14</sup>

### **CHALLENGES IN THE IMPLEMENTATION OF EMPLOYER'S LIABILITY IN FACTORIES UNDER THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020**

The implementation of employer liability in factories under the Occupational Safety, Health and Working Conditions Code, 2020 faces several practical and structural challenges that hinder its effective realization. One of the primary issues is the lack of awareness among employers and workers regarding the provisions of the Code, particularly in small and medium-scale industries where legal compliance is often not prioritized. Many employers are either unaware of their expanded duties or lack adequate training to implement safety standards, while workers may not fully understand their rights, leading to weak enforcement at the ground level.

Another significant challenge lies in the administrative and enforcement mechanism. Although the Code introduces the concept of Inspector-cum-Facilitators, this shift from a strict inspection regime to a more facilitative approach has raised concerns about reduced regulatory oversight. Limited manpower, inadequate training of enforcement authorities, and bureaucratic inefficiencies further weaken the monitoring process. In comparison to the stricter inspection framework under the Factories Act, 1948, the current system may not be sufficiently robust to ensure compliance, especially in hazardous industries.

Financial and infrastructural constraints also pose a major obstacle, particularly for smaller

factories that may find it difficult to invest in safety equipment, proper ventilation systems, and welfare facilities as mandated under the Code. The presence of a large informal workforce and the widespread use of contract labour further complicate the fixation of employer liability, as responsibility is often diffused between principal employers and contractors. This creates ambiguity in accountability and weakens the enforcement of safety standards.

Additionally, delays in the formulation and implementation of detailed rules by state governments create uncertainty and inconsistency in the application of the Code across different regions. The discretionary powers granted to the government to exempt certain establishments from compliance may also lead to misuse or arbitrary application, thereby diluting worker protections. Furthermore, the absence of strong grievance redressal mechanisms and limited access to justice for workers reduce the effectiveness of legal remedies in cases of non-compliance.

Overall, these challenges highlight a gap between the legislative intent of the OSH Code, 2020 and its practical enforcement. Without addressing issues of awareness, enforcement capacity, financial constraints, and regulatory clarity, the goal of ensuring effective employer liability and safeguarding workers' safety in factories may remain only partially fulfilled.

### **LEGAL FRAMEWORK GOVERNING EMPLOYER'S LIABILITY IN FACTORIES UNDER THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020**

The legal framework for employer's liability in factories under the OSH Code, 2020 is structured around statutory duties, regulatory mechanisms, and enforcement provisions aimed at ensuring occupational safety, health, and welfare of workers. The Code consolidates and replaces several pre-existing labour laws, including the Factories Act, 1948, thereby creating a unified and comprehensive system of regulation applicable to factory establishments.

At the core of this framework are the general and specific duties imposed on employers. The Code mandates that every employer must ensure, so far as is reasonably practicable, the health, safety, and working conditions of all employees. This includes providing and maintaining a safe working environment, ensuring proper ventilation, sanitation, and hygiene, and implementing measures to prevent accidents and occupational diseases. Employers are also required to provide adequate training, supervision, and necessary safety equipment to workers, thereby establishing a proactive duty of care.

The framework further includes provisions relating to the registration of establishments, which is mandatory for factories falling within the scope of the Code. Employers must comply with licensing requirements and maintain prescribed records and registers. The Code also requires the appointment of safety officers and the constitution of safety committees in certain classes of factories, particularly those involving hazardous processes, thereby institutionalizing internal safety monitoring mechanisms.

Another important component is the regulation of working conditions, including working hours, leave, welfare facilities such as drinking water, restrooms, canteens, and medical facilities. These provisions ensure that employer liability extends beyond mere accident prevention to the overall well-being of workers in factory environments.

Enforcement of employer liability is carried out through the system of Inspector-cum-Facilitators, who are empowered to inspect establishments, examine records, and ensure compliance with the provisions of the Code. The framework also incorporates web-based inspection schemes to promote transparency and reduce arbitrariness. In cases of non-compliance, the Code prescribes penalties, fines, and in certain instances, imprisonment, thereby creating a deterrent effect against violations by employers.

Additionally, the Code recognizes the role of the appropriate government in framing rules,

granting exemptions, and prescribing standards, which adds a layer of administrative regulation to the legal framework. While this provides flexibility, it also places significant responsibility on authorities to ensure that such powers are exercised judiciously.

Overall, the legal framework under the OSH Code, 2020 establishes a comprehensive system of employer liability in factories by combining statutory obligations, regulatory oversight, and penal consequences. It reflects a shift towards a more integrated and compliance-driven approach to occupational safety, while aiming to balance industrial development with the protection of workers' rights.

#### **LIMITATIONS OF EMPLOYER'S LIABILITY IN FACTORIES**

The framework of employer's liability under the OSH Code, 2020, though progressive in intent, is subject to several limitations that affect its effectiveness in ensuring workplace safety in factories.

One major limitation is the potential dilution of stringent safeguards that existed under the earlier Factories Act, 1948. While the OSH Code consolidates multiple laws, certain detailed and specific provisions have been generalized, which may reduce the clarity and strictness of employer obligations. This shift towards simplification sometimes comes at the cost of precision in regulation.

Another significant limitation is the wide discretionary power granted to the appropriate government to exempt certain establishments from the application of provisions of the Code. Such powers, if exercised excessively or arbitrarily, may weaken the enforcement of safety standards and reduce employer accountability, particularly in sectors where strict compliance is most needed.

The introduction of the Inspector-cum-Facilitator system also presents a limitation. Unlike the traditional inspection mechanism, which was more stringent and enforcement-oriented, the facilitative approach may reduce the deterrence effect on employers. This could

lead to a more compliance-friendly but less strictly monitored system, especially in high-risk factory environments.

Further, the Code heavily relies on the framing of rules by central and state governments for its effective implementation. Delays or inconsistencies in rule-making can create ambiguity and uneven application of the law across different states. This lack of uniformity undermines the objective of having a consolidated and streamlined legal framework. Another limitation is the inadequate focus on the informal and contract labour sector, which constitutes a significant portion of the workforce in factories. The presence of multiple layers of employment relationships makes it difficult to clearly fix liability on employers, often resulting in evasion of responsibility. Additionally enforcement challenges such as shortage of inspectors, lack of technical expertise, and administrative inefficiencies further weaken the practical application of employer liability provisions. Workers also face barriers in accessing grievance redressal mechanisms, which limits their ability to enforce their rights effectively.

In conclusion, while the OSH Code, 2020 aims to modernize and strengthen employer liability in factories, these limitations highlight the need for stronger enforcement mechanisms, clearer provisions, and better administrative support to ensure that the legislative objectives are fully achieved.

### CONCLUSION

In conclusion, the Occupational Safety, Health and Working Conditions Code, 2020 marks a significant step towards consolidating and modernizing India's labour law framework, particularly in redefining employer's liability in factory establishments. The Code establishes a comprehensive system of duties, compliance requirements, and enforcement mechanisms aimed at ensuring occupational safety, health, and welfare of workers. While it builds upon the foundational principles of the Factories Act, 1948, it also introduces a more streamlined and flexible approach to regulation. However, the

effectiveness of employer liability under the Code is constrained by certain limitations, including potential dilution of stringent safeguards, administrative challenges, and gaps in implementation. The shift towards a facilitative inspection regime and the presence of discretionary powers further raise concerns regarding enforcement. Therefore, the success of the OSH Code ultimately depends on robust implementation, clear regulatory guidelines, and enhanced accountability mechanisms. A balanced approach that combines industrial growth with strong worker protection is essential to achieve the true objectives of occupational safety legislation in India.

### KEY RECOMMENDATIONS

1. Strengthen enforcement mechanisms under the Occupational Safety, Health and Working Conditions Code, 2020 by increasing the number of inspectors and ensuring regular, strict inspections of factory establishments.
2. Provide clear and detailed rules and guidelines to eliminate ambiguities in employer obligations and ensure uniform implementation across all states.
3. Limit and regulate the discretionary powers of the government in granting exemptions to prevent misuse and ensure that worker safety is not compromised.
4. Enhance awareness and training programs for employers and workers regarding their rights and duties under the OSH Code, 2020.
5. Strengthen accountability mechanisms by clearly defining liability in cases involving contract labour and multiple employers.
6. Introduce stricter penalties and ensure timely prosecution for violations to create a strong deterrent against non-compliance.
7. Improve the effectiveness of the Inspector-cum-Facilitator system by balancing facilitation with strict enforcement and monitoring.
8. Ensure better infrastructure and financial support, especially for small and medium-scale factories, to help them comply with safety standards.

9. Establish efficient grievance redressal mechanisms to enable workers to report violations and seek remedies easily.
10. Promote the use of technology, such as digital compliance systems and real-time monitoring, to enhance transparency and accountability in enforcement.
11. Encourage periodic safety audits and risk assessments in factories to proactively identify and mitigate hazards.
12. Align the provisions of the OSH Code with international labour standards, particularly those recommended by the International Labour Organization, to ensure global best practices in workplace safety.

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- ❖ Bhopal Gas Leak Disaster Case (Union Carbide Corporation v. Union of India)
- ❖ Consumer Education and Research Centre v. Union of India
- ❖ Bandhua Mukti Morcha v. Union of India
- ❖ Ramakrishna Mission v. State of West Bengal

#### ARTICLES AND JOURNALS

1. Niyathi R. Krishna, “Occupational Safety, Health and Working Conditions Code, 2020 and Interstate Women Migrants: A Gender Integrative Evaluation,” **Indian Journal of Public Administration** (2025).

– This article analyses the OSH Code with a focus on labour protection and highlights gaps in implementation and employer accountability.

2. S. Sundar, “Labour Law Reforms in India: The Occupational Safety, Health and Working Conditions Code, 2020,” **Economic and Political Weekly**.

– Discusses structural changes in labour regulation and evaluates the impact of the Code on employer obligations and worker safety.

3. Anamitra Roychowdhury, “Occupational Safety and Health in India: Legislative Reforms and Challenges,” **Journal of**

#### Industrial

– Examines the evolution of occupational safety laws and identifies enforcement challenges affecting employer liability.

4. International Labour Organization, “Safety and Health at the Heart of the Future of Work: Building on 100 Years of Experience,” **ILO Report / Journal Publication**.

– Provides global perspectives on occupational safety standards and employer responsibility, useful for comparative analysis with the OSH Code.

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