



THE EMPLOYEES' COMPENSATION ACT: CONTRIBUTES TO SAFE AND HEALTHY WORKPLACES

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Abstract:

The concept of employee has evolved over time as the economy, society, and technology have changed. The agricultural revolution and industrial revolution led to the development of new jobs and employment opportunities as cities and towns grew. In addition, the industrial revolution led to the development of factories and businesses, which required a large workforce, i.e., workers. The workers were often treated poorly and experienced challenges like a lack of good working and living conditions, low wages, a lack of job security, etc. These problems led to the need for organisations like labour unions to protect the welfare of workers. The first labour union was formed in the early 19th century in England and the USA. The International Labour Organisation was created in 1919, which recognised labour rights and helped in the advancement of the economic and working conditions of employers, employees, and the government. Many labour unions were formed during the pre- and post-independence of India. The All India Trade Union Congress, formed in 1920, is the first national trade union federation in India. The enactment of the Indian Constitution in 1950 guarantees the right to freedom of association and the right to form trade unions. The Trade Union Act of 1926 provides a legal framework for the functioning of trade

unions. The Employees' Compensation Act of 1923 is an important piece of legislation that protects the rights of employees and their families. This study deals with the contribution of the Employees' Compensation Act to promoting workplace safety, social justice, and financial security for workers. The ultimate objective of this act is to give legal remedies to employees. The legislation in India provides a number of laws and rules for the development and protection of workers by ensuring their rights and working conditions. The major challenge faced in the development of workers is a lack of awareness among workers about their rights and the role of trade unions.

Keywords: labour welfare, Compensation, workplace safety, workers' right

Introduction:

An employee is an individual who provides services to an employer in exchange for money in the form of wages, salary, commissions, or other forms of payment. Employees work under the direction and control of their employer, and they are responsible. The term "employee" is often used interchangeably with the term "worker." However, there is a subtle distinction between the two. A worker is a broader term that can refer to anyone who performs work, regardless of whether they are employed or not. An employee, on the other hand, is specifically someone who works for an employer under the terms of a contract to perform the tasks and duties that are assigned to them. The concept of employee has evolved over time as the economy, society, and technology have changed. The agricultural revolution and industrial revolution transformed the way humans worked and paved the way for new employment opportunities. As cities and towns emerged, a surge in demand for labour arose, giving rise to diverse occupations and industries. The Industrial Revolution, with its emphasis on manufacturing and mechanization, further fuelled the need for a large workforce, leading to the establishment of factories and



businesses. This shift from traditional agrarian societies to industrialized nations marked a turning point in the concept of employment, opening up an emergence of new job opportunities and shaping the modern workforce. The workers were often treated poorly and experienced challenges like a lack of good working and living conditions, low wages, a lack of job security, etc. These problems led to the need for organizations to protect the welfare of workers which is the labour union. A labour union, also known as a trade union, is an organization of workers who have come together to collectively bargain with their employers to improve their pay, benefits, and working conditions. The first labour union was formed in the early 19th century in England and the USA in response to the harsh working conditions and exploitation faced by workers during the Industrial Revolution.

In 1919, the International Labour Organisation (ILO) was established, a specialized agency of the United Nations that is responsible for the promotion of social justice and the advancement of labour rights worldwide. India is one of its founder members and at present it has 187 members. The ILO's unique tripartite structure, mirrored by its member countries, ensures a balanced representation of governments, employers, and workers, fostering a harmonious dialogue that paves the way for effective social justice initiatives. The ILO's unwavering commitment to social justice manifests in its multifaceted approach, encompassing international standards, knowledge dissemination, technical assistance, and collaboration with like-minded organizations. Through this comprehensive strategy, the ILO empowers member countries to establish robust social security systems that address the diverse needs of their workforce. The ILO's vision of social security encompasses a wide spectrum of benefits, meticulously crafted to safeguard the well-being of workers and their families. These benefits include medical care, sickness benefits, unemployment benefits, old-age benefits, employment injury benefits, family benefits,

maternity benefits, invalidism benefits, and survivor's benefits. By advocating for these comprehensive social security measures, the ILO empowers nations to establish a safety net that protects workers against life's unforeseen challenges, fostering a society where dignity and security prevail. [1]

Many labour unions were formed during the pre-and post-independence of India. The All India Trade Union Congress, formed in 1920, is India's first national trade union federation. It played a major role in the labour movement in India during British rule. The enactment of the Indian Constitution in 1950 guarantees the fundamental right to form associations or unions under Article 19(1)(c). [2] This includes the right to form trade unions. This right is essential for workers to protect their interests and secure their rights. Trade unions play a vital role in collective bargaining, ensuring fair wages and working conditions for their members. They also advocate for workers' rights and provide support during employer disputes.

Trade Union Act, 1926:

The Trade Union Act of 1926 was enacted to provide a legal framework for the functioning of trade unions in India. The Act defines the rights and obligations of trade unions and their members, and it provides a mechanism for the resolution of disputes between trade unions and employers.

One of the main objectives of the Act is to promote the growth of trade unions and to encourage workers to join them. The Act also aims to ensure that trade unions are run democratically and that their members have a say in the way they are run. The Act legalizes the existence of trade unions by requiring their registration. Registration is voluntary, but it gives trade unions certain benefits, such as the right to sue and be sued, and the right to hold property. The Act also establishes a system for the recognition of trade unions. Recognition is important because it gives a trade union the right to bargain collectively with an employer on behalf of its members. The Act also provides for the resolution of disputes between trade unions



and employers. Disputes can be resolved through conciliation, arbitration, or adjudication. The Trade Union Act of 1926 is an important piece of legislation that has helped to strengthen the labour movement in India. The Act has played a vital role in promoting the interests of workers and improving their working conditions. [3]

The Constitution of India, 1950:

The Indian Constitution safeguards the rights and well-being of workers through various articles. Article 21 ensures decent working conditions and protection from exploitation, while Article 23 prohibits human trafficking and forced labour. Article 24 safeguards children by prohibiting their employment in hazardous work.

Articles 38 and 39 outline the state's responsibility to promote social justice and ensure workers' well-being. Article 38 directs the state to strive to minimize material inequalities and secure a living wage, working conditions, and social security for all workers. Article 39 specifically addresses the state's role in securing the right to work, fair wages, and healthy working conditions for all citizens.

Article 41 further emphasizes the state's responsibility to provide means of livelihood and social security for its citizens, including workers. It directs the state to, within its economic capacity, provide the right to work, to education, and to public assistance in cases of unemployment, old age, sickness, and disablement. Article 42 complements this provision by emphasizing the state's role in securing just and humane conditions of work and in assuring the health, welfare, and safety of workers in all employments.

Finally, Article 43A promotes worker involvement in decision-making processes within their workplaces. The state is instructed to establish mechanisms that facilitate workers' engagement in the management of industries. [2]

Based on the Constitution's provisions for worker safety, environment, and health India has enacted a number of laws and regulations to protect the safety, health, and welfare of workers, as well as the environment. These laws cover a wide range of issues, including occupational

safety and health, working conditions, environmental protection, and social security. They are The Factories Act, 1948; The Mines Act, 1952; The Environment Protection Act, 1986; The Employees' State Insurance Act, 1948; The Employees' Compensation Act, 1923. These acts are administrative laws and subordinate to the constitution of India.

This study focuses on the contribution of the Employees' Compensation Act.

The Employees' Compensation Act, 1923 (ECA 1923):

The Employees' Compensation Act of 1923 (ECA 1923) is a landmark piece of legislation in India that safeguards the rights and well-being of workers and their families. Enacted in the wake of growing concerns about workplace safety and the need for social protection for workers, the ECA 1923 has played a pivotal role in promoting workplace safety, social justice, and financial security for workers across various industries.

Workplace Safety

The Employees' Compensation Act of 1923 (ECA 1923) plays a pivotal role in promoting workplace safety and ensuring workers' well-being. By mandating compensation payments to workers injured or affected by occupational diseases, the act incentivizes employers to prioritize safety measures and create a safer work environment. This emphasis on safety has led to a reduction in workplace accidents and a decline in the incidence of occupational diseases.

The act's broad definition of "workman" in Section 2(2) ensures that a wide range of workers are covered under its provisions, including those employed in various establishments and industries. Section 3(1) establishes the principle of strict liability, holding employers liable for compensation payments even if they are not at fault for work-related accidents. Section 4 specifies the amount of compensation payments payable to workers in case of temporary disablement, permanent disablement, or death, ensuring fair compensation based on their average monthly earnings. Section 8 empowers the Commissioner for Workmen's Compensation to conduct inquiries to determine compensation



amounts and resolve claims, ensuring a fair and impartial process for workers. [4]

Overall, the ECA 1923 stands as a testament to India's commitment to promoting workplace safety and ensuring the well-being of its workers. By establishing a comprehensive compensation system and emphasizing safety measures, the act has contributed significantly to a safer and more secure work environment for millions of workers across the country

Social justice

The Employees' Compensation Act of 1923 (ECA 1923) stands as a beacon of social justice, safeguarding the financial well-being of workers and their families in the face of work-related misfortunes. By providing compensation payments to cover medical expenses, loss of earnings, and other financial burdens arising from work-related injuries or diseases, the act ensures that workers and their families are not left destitute in the wake of such tragedies. This financial security is particularly crucial for vulnerable workers and their families, who may face severe financial hardship due to a loss of income.

Section 4(1) of the ECA 1923 stipulates that workers experiencing temporary disablement are entitled to half-monthly compensation payments equivalent to their average monthly earnings. Section 4(1)(b) provides for a lump sum compensation payment for workers suffering permanent partial disablement, calculated based on the percentage of their average monthly earnings. In cases of permanent total disablement, Section 4(1)(c) mandates monthly compensation payments equal to two-thirds of the worker's average monthly earnings.

In the event of a worker's death due to a work-related injury, Section 4(2)(a) ensures that their dependents receive monthly compensation payments equivalent to the amount the deceased worker would have been entitled to if they had been permanently totally disabled. [4] These provisions underscore the act's unwavering commitment to social justice and financial security for workers and their families, ensuring

that they are able to maintain a decent standard of living even in the face of adversity.

Financial security

The Employees' Compensation Act of 1923 (ECA 1923) serves as a crucial safeguard for the financial well-being of workers and their families. It establishes a comprehensive compensation scheme to address the financial impact of work-related injuries, disabilities, and deaths. In cases of permanent disability or death, the act provides compensation payments to ensure that workers and their families are not left destitute in the face of adversity.

Section 4(1)(b) specifically outlines compensation for workers who suffer permanent partial disablement. They are entitled to a lump sum payment calculated based on the percentage of their average monthly earnings, ensuring that they receive financial support commensurate with the extent of their disability.

For workers who suffer permanent total disablement, Section 4(1)(c) mandates monthly compensation payments equal to two-thirds of their average monthly earnings. This provision ensures that workers who are completely incapacitated due to work-related injuries or illnesses continue to receive a substantial portion of their income, enabling them to maintain a decent standard of living.

In the unfortunate event of a worker's death resulting from a work-related injury, Section 4(2)(a) ensures that their dependents are not left financially vulnerable. Dependents are entitled to monthly compensation payments equivalent to the amount the deceased worker would have received if they had been permanently totally disabled. This provision safeguards the financial security of families who have lost their primary earner due to work-related tragedies. [4]

Landmark Case In Employee Safety And Health In India:

1. The Associated Cement Companies ... vs. Its Workmen & Another, 1959 case is a significant example of how case law can influence legislation and promote worker safety and protection. By recognizing the potential for gradual exposure to hazards to cause



occupational diseases, the Supreme Court's decision paved the way for expanding the scope of compensation under the ECA and ensuring that workers are not left without support when they suffer from work-related illnesses. This case led to an amendment to the ECA in 1982, specifically including occupational diseases caused by exposure to hazardous substances within the definition of "accident." This amendment ensured that workers affected by occupational diseases, such as those who suffered from health problems due to exposure to toxic chemicals at the Bhopal Gas Tragedy, would be entitled to compensation under the ECA. [5]

2. The Bhopal gas tragedy of 1984 contributed to the enactment of legislation to improve workplace safety standards in the country. The incident, which involved the release of toxic methyl isocyanate gas from a Union Carbide India Limited (UCIL) pesticide plant in Bhopal, Madhya Pradesh, resulted in the deaths of over 3,500 people and left thousands more suffering from debilitating health problems. The Bhopal gas tragedy exposed the severe shortcomings in industrial safety regulations and emergency response mechanisms in India. In response to the tragedy, the Indian government enacted the Bhopal Gas Leak (Registration of Claims and Disposal of Compensation) Act, 1985; the Environment Protection Act, 1986; the Hazard Identification and Risk Assessment (HIRA) guidelines in India. These guidelines require industries to identify and assess potential hazards at their workplaces and implement appropriate safety measures to mitigate risks. It highlighted the limitations of the ECA at the time, as it did not adequately cover compensation for occupational diseases caused by exposure to toxic substances. This tragedy led to several amendments to the ECA. [6]

The Employee's Compensation (Amendment) Act, 2017:

The amendments introduced through the Employee's Compensation (Amendment) Act, 2017 further strengthen the Act's effectiveness in protecting workers' rights and ensuring timely compensation. The addition of Section 17A mandates employers to inform their employees about their rights under the Act, both in writing and electronically, in a language understandable to the employee. This mandatory information sharing empowers workers with knowledge of their entitlements and helps prevent potential exploitation or denial of compensation claims. Similarly, the increase in penalty for contravention of the Act from Rs. 5,000/- to Rs. 50,000/- or up to one lakh rupees serves as a strong deterrent against non-compliance by employers. This revised penalty structure aims to ensure that employers take workplace safety seriously and adhere to the provisions of the Act to protect their employees' well-being. The revision of the dispute amount from Rs. 300/- to Rs. 10,000/- or such higher amount as notified by the Central Government, under Section 30, aims to streamline the dispute resolution process and reduce the burden on the courts. This revision allows for more timely and efficient resolution of compensation disputes, ensuring that workers receive their due compensation promptly. [4]

The statistics from the Directorate General Factory Advice Service and Labour Institutes (DGFASLI) report (2021) highlighting 32,413 accidents, 1,050 fatalities, and 3,882 injuries in 2020 paint a concerning picture of workplace safety in India. In order to fully understand the impact of Employee Compensation Acts on workplace safety and health in India, it is important to consider statistical data. Unfortunately, the statistics pertaining to workplace accidents and occupational diseases in India are not well-documented by the government. This lack of documentation hinders the ability to accurately assess the effectiveness of employee compensation acts in improving

workplace safety and health. According to a study conducted on occupational health research in India, the framework for identifying, assessing, and controlling workplace hazards involves management commitment, employee participation, written occupational health and safety performance, and the formation of a strong health and safety performance committee. Despite the lack of comprehensive statistical data, there are some sources that provide insights into workplace safety and health in India.

Objectives:

- To examine the legal framework governing workplace safety and health in India.
- To explore the implementation of legislative provisions that ensure workplace safety and health compliance.
- To evaluate the role of legislative provisions in promoting worker well-being and productivity.
- To propose recommendations for strengthening legislative provisions and improving workplace safety and health practices.

Methodology:

The paper involves a mixed-methods approach, combining quantitative and qualitative data collection methods to gain a comprehensive understanding of workplace safety and health in India. The quantitative data was obtained from a survey of employers working in various companies. The qualitative data was collected through semi-structured interviews with a diverse group of employers, allowing their perspectives and experiences related to workplace safety and health.

Results and Discussions:

The Scheduled interview were based on the following 10 questions, the results are listed as follows in form of pie charts

Chart No. 1. Is there the hygienic or healthy environment in your workplace?

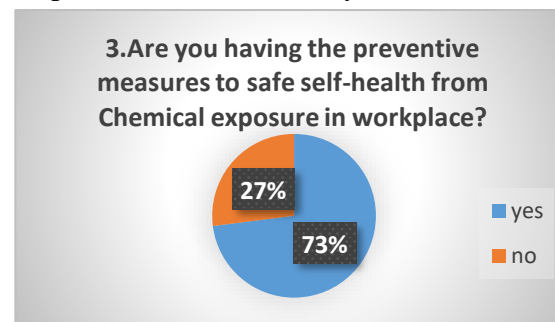


Interpretation: From the above chart, we can observe that 92% of respondents have hygienic and healthy environments in their workplaces.

Chart No. 2. Are you facing poor housekeeping in workplace?

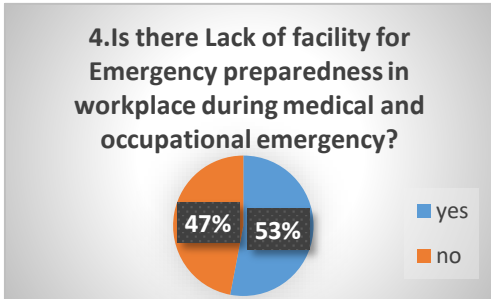


Interpretation: As we observed 88% of the respondents have a healthy



Interpretation: From the above chart, we know that 73% of the respondents have the safety measures from Chemical exposure in the workplace.

Chart No. 4.Is there Lack of facility for Emergency preparedness in workplace during medical and occupational emergency?

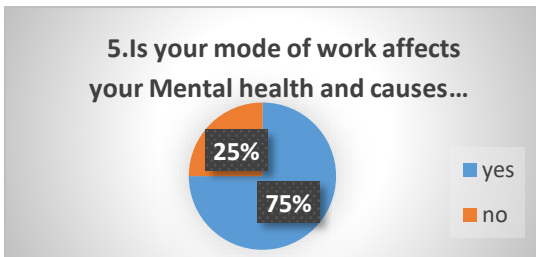


Interpretation: As we observed that 53% of the respondents reported that lack of facility for emergency preparedness during a medical or occupational injury in the workplace.

Chart No. 5.Is your mode of work affects your mental health and causes Stress?

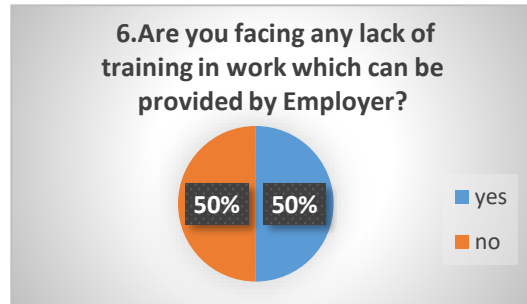
environment, but face poor housekeeping in their workplace.

Chart No. 3.Are you having the preventive measures to safe self-health from Chemical exposure in workplace?



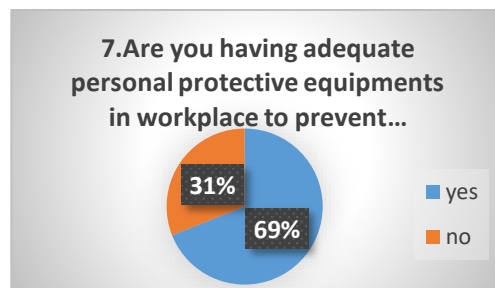
Interpretation: From this Chart, This is to notify that 75% of the respondents are affected mentally by their work.

Chart No. 6.Are you facing any lack of training in work which can be provided by Employer?



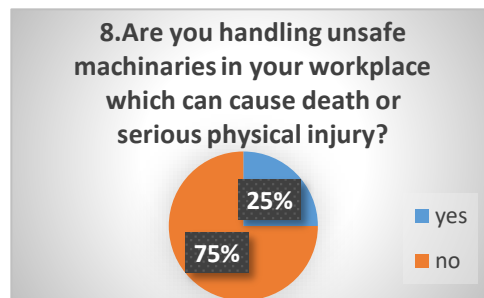
Interpretation: As we observed 50% of the respondents feel a lack of training in work which can be given by their employer.

Chart No. 7.Are you having adequate personal protective equipment in workplace to prevent occupational diseases?



Interpretation: From this Chart, We can observe that 69% of the respondents have Preventive equipment which protects them from Occupational diseases.

Chart No. 8.Are you handling unsafe machineries in your workplace which can cause death or serious physical injury?



Interpretation: As we observed that 75% of the respondents are using safe machinery in the workplace that cannot cause personal injury.

Chart No. 9. Is the employer maintaining the report of health and safety maintenance in workplace?



Interpretation: As we observed 67% of the respondents reported that the employer maintains the report of health and safety maintenance in the workplace.

Chart No. 10. Do you know your legal rights to get healthy and safe workplace?



Interpretation: From this Chart, We can observe that 59% of the respondents don't know their legal rights and legal remedies against occupational injuries.

FINDINGS AND SUGGESTION:

- The survey results indicate that a majority of respondents (92%) perceive their workplaces to have a hygienic and healthy environment. However, despite this positive perception, 88% of respondents reported facing poor housekeeping practices in their workplaces. This suggests a disconnect between the overall cleanliness of the workplace and the daily maintenance

practices that contribute to a hygienic environment.

- The survey found that 73% of respondents have access to safety measures to protect them from chemical exposure in the workplace. This suggests that employers are taking some steps to address the issue of chemical exposure hazards. However, further investigation is needed to determine the effectiveness of these safety measures and whether they are adequately protecting workers from potential harm.
- The survey revealed a significant gap in emergency preparedness measures for medical or occupational injuries in the workplace. Only 53% of respondents reported having adequate facilities and procedures in place to address such emergencies. This lack of preparedness poses a serious risk to workers' health and safety.
- A concerning finding from the survey is that 75% of respondents reported experiencing negative mental health impacts due to their work. This suggests that work-related stress and mental health issues are prevalent among the workforce and require immediate attention.
- The survey found that 50% of respondents feel a lack of training in their work. This suggests that employers need to invest more in providing adequate training to their employees to ensure they have the necessary skills and knowledge to perform their jobs safely and effectively.
- Despite the lack of training, 69% of respondents reported having access to preventive equipment to protect them from occupational diseases. This indicates that employers are taking some steps to provide personal protective equipment



(PPE) to their workers. However, it is important to ensure that employees are properly trained on the use and maintenance of PPE to maximize its effectiveness.

- The survey revealed that 75% of respondents are using safe machinery in their workplaces that minimizes the risk of personal injury. This is a positive finding that suggests that employers are prioritizing the safety of their workers.
- Additionally, 67% of respondents reported that their employers maintain records of health and safety maintenance in the workplace. This documentation is crucial for identifying and addressing potential hazards and ensuring the continued safety of the work environment.
- The survey found that 59% of respondents are not aware of their legal rights and remedies against occupational injuries. This lack of awareness poses a significant barrier to workers seeking compensation and protection after sustaining work-related injuries. This calls for increased efforts to educate workers about their legal rights and remedies.

CONCLUSION:

The survey findings underscore the importance of legislation in promoting a safe and healthy work environment. While there are positive aspects, such as the use of safe machinery and the availability of preventive equipment, there are also areas that require improvement, such as housekeeping practices, emergency preparedness, and mental health awareness. Stronger enforcement of existing regulations, increased training and education, and a focus on preventive measures are crucial steps in creating safer and healthier workplaces for all workers. However, it

is important to note that legislation alone cannot guarantee a safe and healthy work environment. Employers must also take ownership of creating a safe work environment by implementing and enforcing safety policies and procedures, providing adequate training to employees, and maintaining a safe and hygienic work environment. Additionally, workers must play an active role in their own safety and health by following safety rules and procedures, reporting hazards to their supervisors, and using personal protective equipment when required. By working together, employers, workers, and government agencies can create safer and healthier workplaces for everyone.

The lack of well-documented statistics on workplace accidents and occupational diseases in India poses a significant challenge in evaluating the true impact of these acts. Without reliable data, it becomes difficult to accurately assess the extent to which these acts have contributed to reducing workplace hazards and improving worker safety. To address this data gap, the government should prioritize systematic and comprehensive data collection on workplace accidents, occupational diseases, and the effectiveness of safety measures implemented by employers. This data would provide valuable insights into the true state of workplace safety in India and enable policymakers to make informed decisions about strengthening employee compensation acts and other interventions aimed at promoting safer and healthier workplaces for all workers.

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