HOW WORKERS CAN CLAIM COMPENSATION?

Under Employees State Insurance Act, 1948
Workmen’s Compensation Act, 1923

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INTRODUCTION

In this book we have briefly explained the steps involved in claiming compensation under the Workmen's Compensation Act, 1923. After briefly going through the steps for Compensation, we have gone into the details of the steps a little as well as some of the defences adopted by the employers. Apparently the steps and procedures are very complicated. In reality also, the steps are quite complicated and simplified procedures are the need of the hour. However, one has to make use of the available legal system and use it undauntedly. Workers have had to do this all the time.

Workers even in the organised sector have been refused several of their legal rights, such as compensation for injuries not included in Schedule I of Workmen's Compensation Act, 1923. We hope the given information will clarify many of the doubts about most of the problems regarding compensation.

In the last part of the book, steps under Employees State Insurance Act, 1948 are also mentioned. Now workers earning up to Rs. 6,500/- per month are covered by the ESI and they may find the last section useful as well. Various schedules of the Act, format of the notice and claim, form number 16A for ESI and calculations of compensation amounts are given in the appendices.

'But why talk about compensation at all?' Many argue that one should emphasise about prevention of accidents and diseases. Undoubtedly, prevention should be the most important component in the occupational health and safety policies. Especially, when many of the occupational diseases and the effects of accidents are irreversible. There is for example, no cure in allopathy for silicosis, only symptomatic treatment is possible. This is a lung disease which may lead to death, which increases its gravity even when the exposure to silica is stopped and workers are removed away from
silica dust (progressive disease). Yes, therefore in all cases prevention is a must and is the only solution.

One may not... must not emphasise compensation at the cost of prevention; yet one must not emphasise prevention at the cost of compensation either. They are not opposing or contradictory perspectives but complementary to each other.

Prevention is about future accidents and diseases and how to stop these; compensation is about past loss due to accidents and diseases. Past accidents, for example, cannot be reverted. You can not change the history but at least compensate the loss of individuals and in prevention you can safeguard the coming generation from that loss.

By compensation, we mean money for damages suffered by the workers. Some people look at compensation in the form of hazard allowance, milk, eggs and so on. We are not referring to such hazard allowance when we talk about compensation. Demands and practices like hazard allowances are grey areas and need to be debated further.

We look at compensation as a right of workers who are maimed, disabled and also killed.

There is a negligence at the workplace, negligence also occurs at the place of treatment. Proper diagnosis may not take place. Mostly cases are hidden or white-washed. Firstly, there may be lack of training among the medical doctors about the methods of diagnosis. Unfortunately, even the training that doctors receive during graduation does not equip them to handle occupational diseases. This is something that has been accepted by several doctors themselves. If doctors are trained or oriented to prima facie understand occupational diseases, they may be able to at least direct workers to the appropriate experts. Presently this preliminary condition is also missing.

If however, workers push for compensation as a right, as an undeniable right, a right which cannot be glossed over under any pretext, be it the pretext of prevention being better than
cure, then there may be some more pressure created for prevention of the problem at source. Thus struggle for compensation may act as a lever for both compensating workers for their past injuries and buffer them against future ones.

Many workers injured in fairly gross accidents with obvious permanent disability too are denied compensation. Why is there lack of strong action on the part of organised workers (though this concerns monetary gains)?

Actually, no money can compensate damaged health or bent fingers. But today we have a situation that more and more workers have both -- bent fingers and no compensation to offset the loss of earning due to their damaged health. By making employers pay for damaged health, they may be made to stop or reduce the conditions that give rise to this situation. We see no other mode of justice today. At least this paltry justice in the form of money should not be denied to affected workers.

We are putting forward this brief book so as to help affected workers get their due right.

We would like to thank the workers who have provided valuable information and feedback on this subject. We would also like to thank our colleagues, Sumedha Saxena, Sanjeev Pandita, Rukmini Bagchee, Dr. Murlidhar and Saumy Devasia for their valuable contribution in this book.

We welcome your comments, suggestions and contributions in terms of ideas about better compensation and the broad debate about compensation.

December, 1997

Vijay Kanhere
Harsh Jaitli
STEPS IN CLAIMING COMPENSATION UNDER THE WORKMEN'S COMPENSATION ACT, 1923

1. You can claim compensation under the Act, if
   a). you do not have an ESI card (covered under ESI),
   b). If you have not filed a claim in Civil Court for compensation.

2. Keep record of accident: alongwith
   a). Copy of report to the employer,
   b). Copy of papers of treatment,
   c). Copy of report to the police, if any.
You should preserve these papers properly and safely in files.

DO NOT HAND OVER original documents to anyone, if at all you have to submit papers, submit photostat / xerox copies.

3. If the company or private doctors have not recorded the accident, go to a Public Hospital and get it recorded in Out Patient Department (OPD).

4. Accident cases recorded in public hospitals are to be reported to the local police. Keep a copy of police report with you.

5. Get your permanent disablement assessed by a qualified medical practitioner. All MBBS doctors with legitimate registration numbers are qualified medical practitioners under this Act.

6. In case of diseases due to work specified under Schedule III of the Act, you should get it diagnosed and assessed by any qualified medical practitioner.

7. Give notice of accident and permanent disablement within two years after accident.

   However, if you are late give proper reason for being late in serving the notice and moving to the court.
8. If the employer asks you to be checked by a qualified medical practitioner then he has to a) pay all the charges, b) get your medical examination done, within 72 hours of receiving your notice.

9. In case of death, above procedure has to be followed by the dependants of the victim.

10. In the Court, you have to file your claim. Format of a claim is given in appendix VI.

11. Procedures like, direct examination, cross examination, witnesses, arguments take place and after these steps, order is issued by the labour court (Commissioner under this Act).

12. If the order is in your favour file a ‘Caveat’ in the High Court. ‘Caveat’ means you request the High Court, that in case of an appeal from the employer, the Court should hear your side before admitting the appeal or before giving any interim orders, such as a stay order on the Labour Court decision.

13. You have to serve the copy of the order to the employer.

14. In the High Court appeals can be about legal points and not about facts. Interpretation of the Act or Sections of the Act etc. are questions in appeal. If you have to appeal, you also can appeal only about legal points.

15. If the employer refuses to pay even after an order is passed and after the appeal period is over, you have to apply to the registrar of the labour court for beginning the procedure of recovery.

16. Under this Act, recovery is done as arrears of land revenue by the Revenue Collectors' Office. You have to follow it up with the Revenue Collectors' Office.

The steps in claiming compensation are briefly given above. The various aspects and the arguments of the employers are discussed in the following pages:
CHANDNI'S CASE

Chandni became widow at age 23 on September 30, 1996. Her husband expired at age of 27 due to wounds caused by exposure to sulphuric acid. She knew that his work was causing her husband lot of problems, like, breathing problems, high blood pressure and so on. She also knew that there was lot of dust and fumes in the factory. She contacted a lawyer and the lawyer sent off a notice ‘causing death due to work’ and directed her husband’s employer to pay compensation to dependent Chandni. The case will reach the court, where there will be hearings, judgements, appeals and so on.

The question stands, will Chandni get compensated? The compensation cannot replace her husband but at least she will get some monetary relief. Also a relief that the employer had to pay up some money.

There are many living women and men workers like Chandani, who had been injured, maimed, disabled due to accidents or diseases associated with their work. Majority do not get even the monetary compensation. What are the legal conditions? What necessary information we should have so as to successfully claim compensation?

What are the defences adopted by employers to deny compensation?

"NOT OUR EMPLOYEE"

The first line of defence taken by Suraj Udyog (employer of her husband) in Chandni’s case was: “Her husband was not our employee”.

Under the Workmen’s Compensation Act, it is necessary to show employer - employee relationship. Suraj Udyog claimed that ‘Rama, Chandni’s husband worked in our premises but he was a small contractor and not an employee’. Chandni in her direct examination in labour court and
even under cross examination maintained that he was an employee of Suraj Udyog.

Some companies take defence by claiming that a person working on piece rates and who does not get daily wage or monthly wage is not an employee. This is incorrect. Section 5 of the W.C. Act, which is about calculating of wages, piece rated wage is clearly mentioned.

In construction and in small scale industries or in case of contract workers in big companies there is no individual appointment letter or salary slips given to workers. In such cases, statements by affected workers and other colleagues will help. Many times colleagues may not come forward. One driver had company address on his driving license. The High Court said ‘this’ by itself is not enough to show employer-employee relation and more back-up is needed. Some workers decided to preserve letters which they received at the address of the company. Such letters with additional support will be helpful.

Construction workers in Tamil Nadu have successfully campaigned for getting identity cards. More ways have to be found to show that you work for an employer (If you have ESI Card then you have to claim under ESI Act).

If you are working for a contractor, who has taken a contract from a big company, then the big company is your principal employer. If there is a chain of contractors, then the first company, i.e. from where the chain starts, is the principal employer. Maharashtra State Electricity Board (MSEB) gives contract to company ‘ABC’ to construct a power house. ‘ABC’ company in turn distributes work among smaller contractors. Harihar Pal was working for such an electrical contractor. This contractor employed only seven persons. Harihar Pal was seriously injured. Harihar Pal claimed against company ‘ABC’ as well as the ‘MSEB’. Harihar Pal was to get Rs.30,000/-. MSEB can pay it all or MSEB can share it with ABC company. Who shares how much is not his concern. If ABC fails to pay MSEB the
principal employer will have to pay under this Act.
Lists of various occupations is given in Schedule II of the
Act. Workers involved in those occupations have a right to
be compensated under this Act. If you see the Schedule II
you will see many employments such as construction
[viii(a)], working with radiation [xxviii] and sewerage work
for local authorities [xxxviii] and other employments
mentioned in the Schedule. A note about Schedule II is given
in the Appendix II. For the actual and updated Schedule II,
the readers are advised to see the original Act.

No doubt, the Schedule II of the Act contains exhaustive list
telling us clearly who can claim compensation, but does it
mean that if your occupation is not mentioned, then you
may not be able to claim? Municipalities are local authorities.
Municipalities have hospitals and who in turn have laboratories. Laboratory is not mentioned in Schedule II and
Laboratory is always indoor in a building. Can a laboratory
worker claim compensation after being affected? Yes, he/she can. There are two reasons.

One reason is in the Schedule III of the Act. Schedule III is
a list of diseases for which comparatively compensation can
be claimed easily. The first item is regarding infectious
diseases and occupations where such exposure is possible.
The occupation of health work, laboratory work and
‘wherever there is such a risk’ is included.

What does this mean? It means that the Government and
the Parliament has given a right to laboratory workers.
Though Schedule II does not mention their occupation,
Schedule III mentions them. The intention of Parliament or
legislature is very clear in Schedule III. A glance at Schedule
III will show that ‘wherever there is risk of exposure’ is
mentioned everywhere. In all occupations where there is
risk of exposure to benzene (can cause blood cancer) you
have a right to claim and you are a workman under this
Act. This is true about all occupations in Schedule II and
Schedule III. Even if your occupation is not mentioned in
these two schedules you still have a right to claim.

**TEST TO DECIDE WHO IS A WORKMAN:**

The courts have decided the following tests. Two questions are to be asked

1. Is your work necessary for trade or business of the employer?

2. Are you employed on a permanent basis?

If your answer to any of the question above is YES, then you have right to be compensated. (If you are covered under ESI Scheme, then you should use ESI Act, 1948). The work of any Government department or local authority, i.e., municipalities, is considered to be their trade or business [Section 2(2)].

Anthony is employed as a permanent gardener. In his case answer to question 2 is yes. So he can claim. Answer to question-1 depends on facts and arguments. Is gardening necessary for that business? There will be many arguments, facts put in front of the court and the court will decide. The test is very clear. Ask above two questions and if you get any one answer as 'YES' then you have a right to claim. (See Kochappan V. Krishnan, 1987 II LLj 174). In a case the court ruled that even engineers are workmen under this Act (See 1988, II CLR 50 Rajasthan H.C.).

**ACCIDENTS**

The recording of accident is very important to claim compensation. It may be recorded in the company. Record should be maintained by the Doctor who treats worker. Even if the doctor is in a private hospital or clinic, she or he has to keep the record. Sometimes private practitioners do not keep records. In such a case you should go to a Government Hospital or Municipal Hospital for further treatment or for getting an opinion and get the accident recorded. In the OPD papers too (Out Patient Department) it gets recorded
as "patient complains of pain after injury in an accident while working. Six months old injuries etc."

Anyone can report to the Labour Commissioner, in case of a worker being killed in an accident. In case of such fatal accidents the Labour Commissioner on his own can start enquiry if he gets such a report from anyone or any source (Section 10A).

Report can be filed with Police Station or Factory Inspector. Get stamp of ‘received’ on the copies of your report given to them.

Keep the original records with you. If you have to hand over papers, deposit only Xerox copies. Keep the originals safely with you in proper files.

"WE HAVE ALREADY PAID" is one more defence used by employers. A municipal employee got burn injuries while working near a furnace. During his hospitalisation for five months, salary was paid to him and medical costs were paid by the municipality (the employer). Later, he resumed work but had developed permanent scars and weakness. The Municipal authorities told him: "We have paid you full salary for five months and medical bills were also paid by us. The total expenditure is more than the compensation to be paid. So we won't pay you'. THIS IS A WRONG STATEMENT. Many employees are told this. By taking same excuse in case of crane accidents, accidents in garages of the Mumbai Municipal Corporation and many other accidents, no compensation is paid for permanent disability developed.

One recent example will clarify it more. An employee was injured in a crane accident. Medical bill came up to Rs. 6200/-. Salary paid to him during treatment was Rs. 26,481. After the initial recovery he developed 20% permanent disability in his leg. The labour department also calculated his disability as 20% and Rs. 19,585/- as his compensation amount. He was not fit to work for eight months. His accident leave pay for these months was
Rs. 26,481 in total. Therefore, his employer claimed that he has already been paid Rs. 26,481. So nothing is due to him. **THIS IS ILLEGAL**, because his employer is confusing Compensation for temporary disability with Compensation for permanent disability.

Some companies say: "We have insured all employees and the insurance company refuses to pay so we cannot pay". In this case employee has nothing to do with the insurance company. It is not of his concern weather the amount is paid by the insurance company or by the employer.

To understand that the above defences are incorrect we have to see how compensation is calculated under this Act.

There are four types of compensations under this Act.

Under Section 4-(1) there are 4 sub parts referring to four types of effects.

4-1-a: this refers to **death** resulting from **employment injury**.

4-2-b: this refers to **permanent total** disability resulting from employment injury.

4-1-c: this refers to **permanent, partial** disability resulting from employment injury.

4-1-d: this refers to **temporary** (partial or total) disability resulting from employment injury.

Compensation for the above four effects is provided. The 'purax employment injury' is important to understand. This we will do later. In many cases of accidents it is obvious that it is an employment injury. In case of diseases we will clarify the meaning in later part.

Let us at first step see the meaning of 4-1-a to 4-1-d.

4-1-a is clear. When death results, this section applies. The death need not be in the workplace. After an accident or exposure of chemicals a worker may get admitted to the hospital and may die as a result of that injury. This death is also covered under 4-1-a.

4-1-b is for permanent total disablement.
DISABLEMENT

This is a medical as well as a legal term. Medically it means loss of functionality of a person. For example, if one hand is completely imputed then this will definitely result in some obvious loss of function for that person.

Schedule I provided in the Act for such obvious injuries. Amputation/completely cutting off of hands etc., total deafness etc. are given 100 percent disability. Obviously this is permanent total disability.

Section -2 of the Act gives definitions. Here we will refer to Section 2-1-(g) for disablement. Total disablement means such disablement (permanent or temporary) which incapacitates a workman for all work which he was capable of performing at the time of accident resulting in such disablement.

Schedule I gives 30% disablement for loss of a thumb. If the thumb was vital in the work which a workman performed before accident then legally this is 100% disability. A carpenter who lost four fingers of his hand cannot function as a carpenter anymore. So this is considered total disablement. Even if a doctor gives certificate as per Schedule-I as 30% but because the work performed earlier cannot be done, a claim for 100% or total disablement will be considered legally correct.

R.G. Kushar was injured due to radiation. Doctors evaluated his disablement as 43%. But he could not work with radiation anymore so his disablement was claimed to be total (i.e., 100 %) and this was upheld by the labour court, Bombay.

What is the meaning of a `doctor'? Section 2 - 1 - i defines a qualified medical practitioner as any person registered under any Central Act or Provincial Act or an Act of the legislature of a State providing for maintenance of a register of Medical Practitioner etc. Any MBBS doctor who has a valid registration number from the medical council is a qualified medical practitioner under this Act.
There are many injuries for which Schedule I does not say anything. In such cases we can take a certificate from any qualified medical practitioner.

Vijayan’s fingers were caught in a moving machine. They cracked. He did not lose any finger, but his fingers remained permanently bent. He could not straighten them. This injury is not mentioned in Schedule I. The company doctor said: ‘Sorry Vijayan you have lost some capacity permanently but I can’t give you a certificate as Schedule I says nothing about your problem’.

This is clearly a wrong statement for two reasons. As a doctor it was his duty to try (at least) to evaluate disablement of Vijayan. The other reason is in this Act under Section 4-1-C (ii) it is clearly mentioned that: ‘in the case of an injury not specified in Schedule I such percentage of compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner, permanently caused by injury). In simpler words, for injuries not mentioned in Schedule I the doctor can legally assess the disablement.

There is a special explanation II provided under 4-1-C. Here it says that qualified medical practitioner should have due regard to percentage loss shown in Schedule I when assessing disablement which is not mentioned in Schedule I. This clearly means in all cases of permanent loss of any capacity a qualified medical practitioner (as defined under this Act) needs to assess the disablement and one has a perfectly legal right to do so.

We have, seen many cases such as Vijayan’s injury where doctors did not evaluate disablement and no compensation was paid. Even at places where there is a strong union and workers are insured such compensation is denied. This is blatant injustice.

Our publication "ASSESSMENT OF IMPAIRMENTS AND DISABILITIES" will also be helpful in evaluating or assessing disablement in case of injuries not listed in the Schedule I.
This book is useful in assessment of disability in case of occupational diseases. The only disease which is mentioned in Schedule I is deafness. No other disease is mentioned in Schedule I though there is a long list of occupational diseases, in Schedule III. In case of occupational diseases the qualified medical practitioner has to assess disablement without the help of Schedule I and the above book will be very useful.

If you have an injury which has developed a permanent incapacity and if doctors have not assessed your disablement then you may still persuade them to do so. The time limit for the claim of compensation is two years after accident. If you give sufficient reason for delay the court may accept your application though you may have reached the court late.

For example, Mr. R.G. Kushar was injured in 1981. Doctors had not assessed his disability until 1991. Only when he approached Occupational Health and Safety Center in 1991 his disablement was assessed. He went to court in 1991 that is 10 years after accident and still his application was accepted by the Court and he was awarded Rs. 83000/- as compensation in 1996.

4-1-c refers to a disablement which is not total but it is permanent. No improvement is possible even later. When this stage is reached, the disablement is evaluated.

4-1-d refers to a temporary disablement. This may be total or partial.

In the above case of Vijayan he was in hospital for a week. He was totally disabled for this week. Later he was discharged and he could come to work only after a month. He was told to do some exercises to recoup to get back strength in his other fingers and wrist. Generally after six months, situation becomes stable and at this stage the permanent disablement is to be assessed. For the first month after accident Vijayan was totally disabled as he was unable to join work.
4-1-d gives half months wage in each month for such a disablement. This is a temporary disablement and therefore a temporary compensation for the whole period of treatment (How the amount of compensation for permanent disability is calculated is given in appendix IV). Some workers have earned the right of paid accident leave.

We began this discussion because of the confusion between compensation for temporary and permanent disability. Any employer, may it be a Municipality, cannot deny compensation for permanent disability (P.D.). They cannot confuse it with compensation for temporary disability (T.D.). The Municipal Services Rules applicable in Mumbai also clearly state that pay for accident leave is matched with compensation under 4-1-d (i.e. for T.D.). But in practice it gets confused with compensation under 4-1-c (for P.D.). This 'confusion' is profitable for employers and results in a denial of rights of workers.

One senior unionist commented: 'But there is a law to cut accident leave pay from compensation'. This confusion is due to reviews mentioned under section 6 of the Act. Section 6-1 talks about review of half-monthly payment under 4-1-d (T.D.) if there is a change in condition. Employers or workers may apply for review. Section 6-2 refers to continuing, increasing or decreasing half-monthly payments. It also refers to the possible conversion of half-monthly payment into lumpsum and reduction of lump sum due to Section 4-1-c by half-monthly payments already received.

Please note two points about Section 6-2. Firstly, it says: 'may convert'. Secondly, it says 'under review'. Only the Commissioner is allowed to review under the Act. Employers or Insurance companies on their own cannot reduce compensation for permanent disability.

About medical expenses there is a clear-cut explanation given under Section 4 that allowance or payment for medical treatment shall not be deemed to be compensation. It is clear that the amount of cost of medical treatment cannot be
deducted from the compensation. Such deduction of medical expenses or pay for accident leave is illegal.

As a result we have seen many employees are denied their due compensation. Even places where there is a union and the compensation for permanent disabilities is insured, the compensation is denied. Hopefully this booklet will change things at some places at least.

Some other defences used by employers are:

'Notice Was Not Given On Time'.

'Notice Does Not Describe The Disease Or Accident Properly'.

We have seen, in above example of R. G. Kushar's case No.585-C-129-91 in Labour Court of Mumbai that he gave the legal notice 10 years after the accident. Still his claim was accepted for hearing. He had to give sufficient reasons for the delay. For this you have to give an affidavit listing reasons because of which there was a delay.

As this is a Beneficial Act, delays, technical short-comings are not given importance as in criminal cases or civil cases.

If the employer was aware of the accident or disease, then too delay in notice or lack of notice is accepted by the courts.

It is always better to give notice within two years after an employment accident. Section 10 says: 'No claim for compensation shall be entertained by a commissioner unless notice of accident is given in the manner hereinafter provided as soon as practicable after the happening and unless the claim is referred before him within two years of the occurrence of accident and/or in case of death within two years from the date of death'.

Notice and filing claim before commissioner has to be within two years.

However, full clause/section has to be read: 'Provided further that the want of or any defect or irregularity in a
notice shall not be a bar to the entertainment of a claim.' (a). If accident resulted in death, accident occurred in premises of employer or worker dies in premises. (b) If employer or his manager had knowledge of the accident.

This section provides further that the commissioner may entertain and decide any claim to compensation in any case even if the notice has not been given in due time provided he is satisfied that notice was not given in time due to sufficient reason.

It is clear that only with a sufficient cause one can delay but as this is a beneficial Act the commissioner can hear your claim if there is a delay or some irregularity in notice or claim.

10-2: Notice shall give name and address of the injured person, stated in ordinary languages-cause of injury and date on which accident occurred and notice shall be served on employer or upon a person responsible to employer.

10-4: Notice can be served by delivering it by hand or sending it by registered post addressed to the residence or any office or place of business of the employer. We are giving the format of the notice in the appendix.

The date of accident is important. The age of the worker at the time of the accident is considered for calculation of compensation. The age determines the relevant factor as given in the Schedule IV of the Act (given in the appendix V).

What is the date of disease? Most of the time diseases due to work progresses slowly. Take the case of loss of hearing capacity due to noise. It is not on a particular date that you have hearing problem. Section 10 says in case of diseases: First day of absence of period for which workman was continuously absent due to disablement caused by the disease, OR

In case of partial disablement which does not result in
absence from duty two years to be counted from the day of notice of disablement given to employer. That is, the date of notice is considered as date of accident in case of disease.

In case of absence too it has to be considered when the workman came to know that the absence is due to occupational disease. In most cases occupational diseases are not diagnosed properly. There are many misleading ideas about this area. This takes us to the another defence adopted by employers.

The accident or disease neither resulted in the course of employment nor has arisen out of employment.

Usual defence adopted is that the worker was doing a job not recorded in his job description. 'He was a helper and he was not supposed to operate the machine and accident occurred'.

It is a general practice that workers do or are asked to do many jobs which are not recorded in their job description. If this is a general practice then you have to prove it in your direct examination and in cross examination of employer. You may ask colleagues too to come forward and speak about the usual practice.

The above is not a sufficient defence for employers.

One railway worker died after drinking water in the workshop. The contaminated water in the drum had become poisonous. Railways claimed "this death is not arising out of employment". Court ruled that the water was kept for drinking. It is duty of the employer to provide drinking water during working hours, death due to such water is death due to accident arising out of employment and during the course of employment. (See 1987 CLR 244, Divisional Personnel Officer, Southern Railway V. Karthiyani).

One worker Balwara had gone for call of nature while on duty. He got injured in an accident. His company had
insurance for compensation under this Act. The National Insurance Company argued that when he had gone for call of nature it was not part of the job. It is interesting and important to note down what the Court said. It said, "It is not necessary to show that the employee was actually doing the job entrusted to him at the time of accident. If he leaves the job for a short time for call of nature he was not out of employment for that short period. Accident occurred during the course of employment". (See II CLR 217, 1993 National Insurance V. Balwara).
ALCOHOLISM AND WILFUL DISOBEDIENCE

Another important defence the employers take is as given in Section 3(1) of the Act:

i. Workman under the influence of alcohol or intoxicating drink or drugs.

This is not a defence if accident /disease results in death or permanent disablement. That is, if the worker dies or is totally incapacitated for the job he/she was doing earlier, then the employer will have to pay in spite of worker under intoxicating drugs or alcohol.

ii. Wilful disobedience of order or instruction expressly given or rule for safety.

iii. Wilful removal of safety guards or devices.

The employers will have to show that the workers have been disobedient; only then they may not be liable to pay compensation. However, if the accident or disease results in death or permanent total disablement then the above two defences are not available to employers; the employers will have to pay compensation.

In disobedience please see the underlined word. It has to be wilful disobedience.

In one case, workers were not using safety goggles. A worker got hurt. The management claimed wilful disobedience. The worker claimed that the goggles were faulty and so could not be used while working. And hence the workers were not using them. The court ruled that this did not amount to wilful disobedience. And the claim of the workers was upheld. (See case Chaitram Vs. Steel Authority of India, AIR 1976 S.C. 2140).

DISEASES

In case of Occupational Diseases some lawyers, doctors feel that the connection between work and disease has to be
proved beyond doubt. Let us see what the Act says about this. Section 3(2) is about Occupational Disease. We will take some examples.

Lead is used in dyes, paints and storage batteries and workers are exposed in such industries. Factories Act has given safety precautions but they are violated. There have been instances where workers have been found suffering due to paralysis after being exposed to lead.

Paralysis is possible due to many causes. Lead may affect capacity to produce children. It may cause digestive problems and colic.

Some doctors may argue: "How can you say the paralysis is due to lead?"

Section 3(2) is very clear about this. It says you have to show the following:

Worker has worked in a job where lead exposure is possible. It is necessary to show that he worked in this job for a day. He is suffering from disease which is caused by lead. Occupational history shows exposure to lead. See Schedule III, "Disease caused by lead or its toxic compounds" is listed as item 3 in Part A of the Schedule III, which is given in the appendix III at the back.

For disease in Part A of Schedule III, even a single days work makes you eligible for claim for compensation.

Section 3 states: "contracts disease specified there in (Schedule III) as an occupational disease, peculiar to that employment, the contracting of the disease is deemed to be an injury by accident within the meaning of this Section and unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of the employment."

In the above case employers may claim that the problem with sperms can be caused due to many other things. He cannot get away with it. The words 'unless the contrary is proved'
are important to be noted. It means that if the employer claims anything contrary then this contrary claim has to be proved by him otherwise it is presumed to have arisen out of and during the course of employment.

Employer may say digestive problem or not having children (effect on sperms) or paralysis are due to his habit of consuming alcohol. What ever the employer says he has to prove it. If he does not prove the contrary then disease is deemed to be due to work. Same is true about diseases in Part B and C of the Schedule III.

A worker is loosing hearing capacity. He works in a noisy work place. His audiogram shows a dip for both ears. He shows sensory loss. Then it is deemed to be due to work. If the employer claims “because worker is part of a Bhajan Mandali (a group of singers) or a noisy orchestra and his hearing problem is due to that”, then employer will have to prove it.

Hence, the burden of proof is on the employer to prove the contrary.

Hearing loss is on item 14 in Part B of Schedule III.

For part B diseases, six months employment is necessary to be eligible for claim.

For part C diseases, there are notifications as we have reproduced in the appendix. For silicosis, a worker has to work for five years in silica exposure to become eligible.

By the term ‘eligible’ it is meant that the connection between work and the peculiar disease is presumed after a period, one day, six months or five years as written above and in the Act and notifications. If the worker claims earlier than the above periods then the burden of proving connection is on the worker. Also, if the worker claims after retirement then too the burden of proving that the peculiar disease has arisen out of and during course of employment is on the worker.
Otherwise what worker has to show are three things.

1. Works in employment as shown in Schedule III.
2. Has worked for necessary period.
3. Suffers from peculiar disease (mentioned in Schedule III) which is peculiar to that employment. Then it is assumed to be due to work.

While many people believe that the worker or doctor must prove the causal role of work, Schedule III and Section 3 clearly says that after above three things are proved, the role of work is presumed. ANYTHING CONTRARY IS NEEDED TO BE PROVED BEYOND DOUBT.

If you claim for disease not in Schedule III then the burden of proof on workers increases. There it is your duty to prove the connection. For example, back-ache due to lifting weights is not given in Schedule III. A claim for the above will have to be proved by the claimant.

IN CRIMINAL LAW, AN ACCUSED IS CONSIDERED INNOCENT UNTIL PROVEN GUILTY. THE PROSECUTION HAS TO PROVE THE GUILT.

Unlike in a criminal or a civil case, the burden of proof does not lie with the accusing party. Consider the following: if a worker goes to a civil court for damages, he/she can claim more damages than the compensation amount given in the Act. But the burden of proof will be more on the worker under the Civil law. There worker will have to prove beyond doubt the connection between work and disease. IT IS NOT SO UNDER THE WORKMEN'S COMPENSATION ACT.

This is a case under a beneficial Act, the Workmen's Compensation Act. Here as said earlier, the Act says: show three things about Schedule III; then the connection between work and disease is assumed. Proving anything against will have to be done by the employer.
Compensation under Employees State Insurance Act (1948)

Ananthan came home in the evening. He had escaped from a speeding truck. He could not hear the horn of the truck. He entered the house, sat and immediately Usha his wife started telling him about studies of their son. He could hear only part of it.

For some years he had the problem of some noise in ears even after he left the factory. In the daytime in the noise of machines he used to have headache sometimes. Doctor had given him some ear drops, but they did not help. Usha had increasingly complained “you do not pay attention, to what I say?” Many husbands have this habit. Earlier, Ananthan could hear what Usha said; but used to keep on disregarding it. Now a days sometimes he could not hear parts of her speech. His friends had started complaining about it and some even poked fun at him.

Thomas, Sridhar and Leela all have a skin problem. Thomas and Sridhar are working in a processing laboratory. Leela works in an insecticide factory. Itching constantly, eczema is one of their problems. Medicines do not help. Partners and family members keep on complaining, problem continues.

What can Ananthan, Thomas, Sridhar and Leela do?

There are many others suffering from such problems. Many workers have problems of asthma, cough, difficulty in breathing and many other problems such as loss of appetite. Such problems may be caused due to work. Ananthan and others have ESI cards. If they have completed nine months in the Employees State Insurance Scheme then they have a right to claim compensation and also they have a right of proper treatment.

Under the Factories Act, 1948 they have a right to ask for prevention of diseases due to work.

We have so many rights in the law books, but in reality we
enjoy a few of them. If rights are backed up by action, collective action, then you may enjoy your rights.

Let us see the above rights as they are in the laws. Let us also see examples where workers acted to get their rights.

Right to get compensation under the ESI Act (1948)

Ramesh got injured at work. He was hospitalised for a month. ESI took care of the treatment. His fracture healed and he did not have any problem, capacity of his hand got back after exercises. Under ESI Act you get compensation for a permanent or temporary incapacity or permanent or temporary disablement. If there is permanent or temporary loss of some capacity or part of the body one can get compensation.

Many workers know the procedure for claiming compensation after an accident.
1. For accidental injuries there is Form No. 16 of the ESIS.
2. Employer fills the details.
3. Statement of two witnesses are recorded.
4. Application for claim is submitted to the local office of ESI.
5. Then the injured worker is called for a check up by the Medical Board.
6. The Medical Board evaluates permanent or temporary disability. Compensation for temporary disability is for a limited period. Later on again the worker is called by the Medical Board to see the extent of permanent disability.

The amount of compensation or pension per day depends on your wages and the percentage of disability. In case of loss of thumb, minimum disability is 30%.

If one is in the daily wage group of say Rs. 50 per day i.e. 5000 paise
one will get 5000 x 30/100 = 1500 paise per day. Or Rs. 15 per day.

22
If one is not satisfied with the decision of the Medical Board, one can appeal to the ESI Tribunal which is in Labour Courts in many states (Please find out about your state). This appeal may take years. Only if you are persistent you may get justice.

The above procedure in case of accidents is known to many workers. But still many workers in small scale industries do not know this procedure. Employees and staff of ESI also are aware about the above procedure. But when it comes to diseases due to work though procedure is similar, it is not well known.

The problem, with diseases is that many times it is not sudden as in case of accidents. Ananthan does not lose capacity to hear on one fine morning. It is a slow process and it is not so obvious as in accidents. Doctors are not specially trained to diagnose occupational diseases.

There is Schedule III in the ESI Act since 1948 (see appendix III). This Schedule lists occupational diseases. Diseases due to work are known as occupational diseases. These are not paid enough attention to by the ESI or the Unions. The ESI Scheme is run by the State Government in most of the states. But the compensation for accidents and diseases is paid by the national level ESI Corporation. The Corporation collects funds from employers and employees. Corporation pays 87.5% of the medical costs borne by the State Government. The workers meet the doctors in ESI Scheme run by the State Government. Recently the Corporation has began Occupational Diseases Centres, at Delhi, Calcutta, Mumbai, and Chennai. Who ever has ESI card can make use of this OD Centre.

What Ananthan and others have to do to get compensation from the system?

He / She has to explain to his

1. Panel Doctor OR to ESI Doctor in dispensary or hospital that “I have hearing problem due to noise at workplace”.

23
"I have skin problem due to chemicals at workplace".

[Problem due to noise is listed in Part B of schedule III as item 14. Skin problems are listed in Part B of schedule III at item 13.]

OR

They can approach a Government General Hospital attached to Medical College and explain the problem patiently. May be some doctors may take more interest in studying their problem.

2. Preserve all earlier medical papers. Keep them in a file. If you have to hand over papers only Xerox copies should be given.

3. Remember how the problem began. Note it down. Report it to the doctors. This is called occupational history. In diagnosis of Occupational Diseases it is very important to record history. Remember details of how the problem increased etc.

4. Do not forget to ask the doctor to record “patient is exposed to high noise levels” or “Patient is exposed to acids” or chemicals or cotton dust or silica dust.

[For prevention of such problems of Factories Act 1948 has section 7A, which gives a right to workers to get all information about noise, chemicals, dusts, used and produced etc. Such information will make workers more aware and they could demand safety measurers. It is their right to get safety measures].

5. If the doctor says “Yes, your diseases is connected with your work or is due to work” or he may say “Avoid cotton dust” request or persuade him to write it on paper. In case of ESI, he/she won’t have to appear in the court. Ask for a certificate.

6. You may get Form No. 16A filled by your employer on the basis of above certificate. Explain to your employer “as in case of accidents the matter is in between ESI and worker. The employer won’t have to
pay any compensation”.

OR

You may have to go to Occupational Disease (OD) Centre, of ESI.

7. You will have to repeat above explanations to the OD Centre. May be, it would be better to fill Form 16A on the basis of certificate from doctor in a General Hospital. Under ESI Act (1948) all decisions about diagnosis, disablement due to occupational diseases are taken by the Special Medical Board. Actually OD Centres and other doctors should just help workers reach the Special Medical Board.

To reach Special Medical Board you have to have Form No. 16A. These forms should be available at ESI offices. But they are not. You have to take help from your union or you may write to us.

8. After Form No. 16A, procedure is same as in case of accident form (form no. 16). Send an application with statement of two witnesses to local office of ESI. The statement of witnesses will be “Leela works in this dusty section for last 15 years. She suffers from .......” You will be called before a Special Medical Board of ESI Corporation. Many out station city doctors may be there in this Special Medical Board. They may ask many questions.

They may ask for many tests to be redone or re-re-done. You have to be patient. Sometimes it is nearly harassment. If you do not understand a question, ask them to explain the question. Do not be annoyed, if you are treated as a culprit or a malinger. They may ask questions out of mistrust. This is our system. You must have known about women who are generally harassed. If they talk openly about it they may be treated as if they are at fault. In courts, women who are victims are asked very bad questions and treated as culprits. This is the
system. Collective action is needed to challenge the attitude. Do not be perturbed by attitude of doctors, be patient and explain your problems thoroughly. We will give one example which explains, what happens many times.

Ronney works in a refrigeration unit. He had problem of headache and hearing loss. His audiogram was done at a Government Hospital in Mumbai (Bombay).

[Occupational Health and Safety Centre (OHSC), Mumbai is a centre formed by unions, doctors, lawyers and researchers. OHSC helps workers in getting properly diagnosed, tells them, about laws etc. OHSC also was part of a team of doctors who put together criteria for diagnosis about schedule III diseases. All ESI doctors should have this publication of PRIA, Delhi-unions can persuade ESI to do so, so that doctors become more aware about this issue.]

OHSC certified "Noise Induced Hearing Loss" (NIHL). Ronney could reach Special Medical Board after he went to court against ESI.

The audiometer to test hearing loss was not working at ESI Hospital. The Special Medical Board sent him to another hospital. They asked him questions. One doctor even said ‘but he hears what ever I say’. This is a common sense misunderstanding. Hearing loss does not mean total deafness. We have to hear human speech as well as sounds of machines, horns and so on. The audiometer measures hearing, up to frequency of 8000 hertz. But many doctors as above have a right to decide our future, bad, but true.

After he was called for Special Medical Board three times in one year, finally the Board gave a decision.

"Ronney is suffering from occupational hearing loss or noise induced hearing loss". And Ronney got compensation after crossing so many hurdles. He was the first worker in Maharashtra and may be in India to get compensation for
occupational hearing loss. Initially workers will have to face many hurdles.

In Mumbai and Ahmedabad, workers in textile had to cross many hurdles to get compensation for lung diseases caused due to cotton dust. In Ahmedabad, workers held rallies, organised consciousness raising foot rallies (Pada Yatras) in workers’ residential areas, put up exhibitions and observed a day to remember workers who expired due to occupational diseases. In Ahmedabad, now more than 75 workers receive compensation from ESI Corporation. In Mumbai nearly 50 workers are receiving compensation for rest of their life.

Recently we noticed two hurdles. OD Centres are not giving certificates or saying “you are not affected due to occupational diseases”. The other hurdle is Medical referee of ESI Scheme (run by State Governments) is refusing to send workers to Special Medical Board.

The ESI Act is very clear. All decisions about occupational diseases are to be taken by the Special Medical Board of ESI Corporation. No authority in between the employee / worker and the Special Medical Board should block workers from reaching the Special Medical Board. This Special Medical Board is financed by contributions of employers, employees. Why should workers be stopped / blocked or harassed before reaching the Special Medical Board? The ESI Corporation, Union representatives in ESI Corporation and also state committee members should actually see that clear instructions reach all states that workers should not be harassed and they should be allowed to reach Special Medical Board. The Special Medical Board should have clear guidelines in diagnosis and evaluation of disability. They should write, reason decisions which are transparent.

There are many problems, but we have to run the hurdle race and see that many of us actually win the race against ESI.
Initial workers face more problems. Collective action can reduce the hurdles.

As in case of accidents if you are not satisfied with decision of Medical Board you may go to court against this decision. Actually, ESI Corporation has lot of money.

The Corporation has savings to the tune of 2000 Crore rupees. This is rightfully saving which needs to be used for workers. But the Corporation does not have state level Special Medical Boards.

It is stingy in giving compensation.
It does have very few OD Centres.
It does not train doctors.
It does not inform workers about their rights.
If we act collectively we may get compensation and also improve ESI Scheme.
# Appendix - I

## SCHEDULE - I

See Sections 2(1) and (4)

### PART - I

List of Injuries Deemed to Result in Permanent Total Disablement

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Description of injury</th>
<th>Percentage of loss of earning capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Loss of both hands or amputation at higher sites</td>
<td>100</td>
</tr>
<tr>
<td>2</td>
<td>Loss of hand and a foot</td>
<td>100</td>
</tr>
<tr>
<td>3</td>
<td>Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.</td>
<td>100</td>
</tr>
<tr>
<td>4</td>
<td>Loss of a sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential.</td>
<td>100</td>
</tr>
<tr>
<td>5</td>
<td>Very severe facial disfigurement</td>
<td>100</td>
</tr>
<tr>
<td>6</td>
<td>Absolute deafness</td>
<td>100</td>
</tr>
</tbody>
</table>
## PART II

List of Injuries Deemed to Result in Permanent Partial Disablement

**Amputation cases—upper limbs (either arm)**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Description of injury</th>
<th>Percentage of loss of earning capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Amputation through shoulder joint</td>
<td>90</td>
</tr>
<tr>
<td>2</td>
<td>Amputation below shoulder with stumpless than [20.32 cms.] from tip of acromony</td>
<td>80</td>
</tr>
<tr>
<td>3</td>
<td>Amputation from [20.32 cms.] tip of acromion to less than [11.43 cms] below tip of olecranon.</td>
<td>70</td>
</tr>
<tr>
<td>4</td>
<td>Loss of hand or of the thumb and four fingers of one hand or amputation from [11.43 cms] below tip of olecranon.</td>
<td>60</td>
</tr>
<tr>
<td>5</td>
<td>Loss of thumb</td>
<td>30</td>
</tr>
<tr>
<td>6</td>
<td>Loss of thumb and its metacarpal bone</td>
<td>40</td>
</tr>
<tr>
<td>7</td>
<td>Loss of four fingers of one hand</td>
<td>50</td>
</tr>
<tr>
<td>8</td>
<td>Loss of three fingers of one hand</td>
<td>30</td>
</tr>
<tr>
<td>9</td>
<td>Loss of two fingers of one hand</td>
<td>20</td>
</tr>
<tr>
<td>10</td>
<td>Loss of terminal phalanx of thumb</td>
<td>20</td>
</tr>
<tr>
<td>10A</td>
<td>Guillotine amputation of tip of thumb without loss of bone</td>
<td>10</td>
</tr>
</tbody>
</table>

**Amputation cases—lower limbs**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Description of Injury</th>
<th>Percentage of loss of earning capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Amputation of both feet resulting in end-bearing stumps.</td>
<td>90</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Description of injury</td>
<td>Percentage of loss of earning capacity</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------------------------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>12</td>
<td>Amputation through both feet proximal to the metatarso-phalangeal joint.</td>
<td>80</td>
</tr>
<tr>
<td>13</td>
<td>Loss of all toes of both feet through the metatarso-phalangeal joint.</td>
<td>40</td>
</tr>
<tr>
<td>14</td>
<td>Loss of all toes of both feet proximal to the proximal inter-phalangeal joint.</td>
<td>30</td>
</tr>
<tr>
<td>15</td>
<td>Loss of all toes of both feet distal to the proximal inter-phalangeal joint.</td>
<td>20</td>
</tr>
<tr>
<td>16</td>
<td>Amputation at hip.</td>
<td>90</td>
</tr>
<tr>
<td>17</td>
<td>Amputation below hip with stump not exceeding 12.70 cms in length measured from tip of great trenchanter</td>
<td>80</td>
</tr>
<tr>
<td>18</td>
<td>Amputation below hip with stump exceeding 12.70 cms in length measured from tip of great trenchanter but not beyond middle thigh.</td>
<td>70</td>
</tr>
<tr>
<td>19</td>
<td>Amputation below middle thigh to 8.89 cms. below knee.</td>
<td>60</td>
</tr>
<tr>
<td>20</td>
<td>Amputation below knee with stump exceeding 8.89 cms. but not exceeding 12.70 cms.</td>
<td>50</td>
</tr>
<tr>
<td>21</td>
<td>Amputation below knee with stump exceeding 12.70 cms.</td>
<td>50</td>
</tr>
<tr>
<td>22</td>
<td>Amputation of one foot resulting in end-bearing stump.</td>
<td>50</td>
</tr>
<tr>
<td>23</td>
<td>Amputation through one foot proximal to the metatarso-phalangeal joint.</td>
<td>50</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Description of injury</td>
<td>Percentage of loss of earning capacity</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>24</td>
<td>Loss of all toes of one foot through the metatarso-phalangeal joint</td>
<td>20</td>
</tr>
<tr>
<td>25</td>
<td>Loss of one eye, without complications, the other being normal</td>
<td>40</td>
</tr>
<tr>
<td>26</td>
<td>Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal</td>
<td>30</td>
</tr>
<tr>
<td>26-A</td>
<td>Loss of partial vision of one eye</td>
<td>10</td>
</tr>
<tr>
<td>A.</td>
<td><strong>Fingers of right or left hand: Index finger</strong></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Whole</td>
<td>14</td>
</tr>
<tr>
<td>28</td>
<td>Two phalanges</td>
<td>11</td>
</tr>
<tr>
<td>29</td>
<td>One phalanx</td>
<td>9</td>
</tr>
<tr>
<td>30</td>
<td>Guillotine amputation of tip without loss of bone</td>
<td>5</td>
</tr>
<tr>
<td><strong>Middle Finger</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>Whole</td>
<td>12</td>
</tr>
<tr>
<td>32</td>
<td>Two Phalanges</td>
<td>9</td>
</tr>
<tr>
<td>33</td>
<td>One Phalanx</td>
<td>7</td>
</tr>
<tr>
<td>34</td>
<td>Guillotine amputation of tip without loss of bone</td>
<td>4</td>
</tr>
<tr>
<td><strong>Ring or little finger</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Whole</td>
<td>7</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Description of injury</td>
<td>Percentage of loss of earning capacity</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>36</td>
<td>Two phalanges</td>
<td>6</td>
</tr>
<tr>
<td>37</td>
<td>One Phalanx</td>
<td>5</td>
</tr>
<tr>
<td>38</td>
<td>Guillotine amputation of tip without loss of bone</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td><strong>B. Toes of right or left foot:</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Great toe</strong></td>
<td></td>
</tr>
<tr>
<td>39</td>
<td>Through metatarso-phalangeal joint</td>
<td>14</td>
</tr>
<tr>
<td>40</td>
<td>Part, with some loss of bone</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td><strong>Any other toe</strong></td>
<td></td>
</tr>
<tr>
<td>41</td>
<td>Through metatarso-phalangeal joint</td>
<td>3</td>
</tr>
<tr>
<td>42</td>
<td>Part, with some loss of bone</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td><strong>Two toes of one foot, excluding great toe</strong></td>
<td></td>
</tr>
<tr>
<td>43</td>
<td>Through metatarso-phalangeal joint</td>
<td>5</td>
</tr>
<tr>
<td>44</td>
<td>Part, with some loss of bone</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td><strong>Three toes of one foot, excluding great toe</strong></td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>Through metatarso-phalangeal joint</td>
<td>6</td>
</tr>
<tr>
<td>46</td>
<td>Part, with some loss of bone</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td><strong>Four toes of one foot, excluding great toe</strong></td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>Through metatarso-phalangeal joint</td>
<td>9</td>
</tr>
<tr>
<td>48</td>
<td>Part, with some loss of bone</td>
<td>3</td>
</tr>
</tbody>
</table>

**Note:** Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent to the loss of that limb or member.
Appendix - II

Note on how to look at Schedule II

Schedule II is a long list of various employment situations. All these workers are ‘workmen’ under the Act and have the right to claim compensation. Almost all workers and employees are included in this list.

In the case of R.G. Kushar, a radiation worker, who was employed in industrial radiography, the item no. XXVII in this schedule was quoted in the court. This item is like this: ‘...employed in any occupation involving the handling and manipulation of radium or X-ray apparatus or contact with radio-active substances.’ It was readily accepted by the court that he was a worker under the Act.

This is the advantage of Schedule II. If your occupation is listed in the Schedule, no further arguments about being a worker is necessary.

This schedule II lists all workers covered under the Factories’ Act, the Mines Act, railway workers, construction workers, zoo workers and so on. At places there are conditions such as: ‘if twenty workers are employed’. If twenty or more workers are employed in the establishment on any single day in the previous year, then that is enough evidence. Some places include the condition ‘where 25 or more workers’ are employed. In construction, one-storey building or twelve feet above the ground is given as a condition.

If these conditions are fulfilled, then it is easier to claim and get the compensation. Otherwise please refer two tests given in the text.

Schedule II does not say who is excluded or who is not a worker. Thus this schedule is inclusive and not exclusive.
## Appendix - III

**SCHEDULE-III**

(See Section 3 of the Workmen’s Compensation Act. This schedule also applies to the Employees’ State Insurance Act.)

**List of Occupational Diseases**

### PART- A

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Occupational disease</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Infectious and parasitic diseases contracted in particular risk of contamination.</td>
<td>a) All work involving exposure to health or laboratory work;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) All work involving exposure to veterinary work</td>
</tr>
<tr>
<td></td>
<td></td>
<td>c) Work relating to handling animals, animal carcasses, part of such</td>
</tr>
<tr>
<td></td>
<td></td>
<td>carcasses, or merchandise which may have been contaminated by animal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>carcasses;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>d) Other work carrying a particular risk of contamination.</td>
</tr>
<tr>
<td>2</td>
<td>Diseases caused by work in compressed air.</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>3</td>
<td>Diseases caused by lead or its toxic compounds.</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>4</td>
<td>Poisoning by nitrous fumes</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>5</td>
<td>Poisoning by organophosphorous compounds</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
</tbody>
</table>
## PART - B

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Occupational disease</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Disease caused by phosphorus or its toxic compounds</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>2.</td>
<td>Diseases caused by mercury or its toxic compounds</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>3.</td>
<td>Diseases caused by benzene or its toxic homologues</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>4.</td>
<td>Diseases caused by nitro and amino toxic derivatives of benzene or its homologues.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>5.</td>
<td>Diseases caused by chromium or its toxic compounds</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>6.</td>
<td>Diseases caused by arsenic or its toxic compounds</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>7.</td>
<td>Diseases caused by radioactive substances and ionising radiations.</td>
<td>All work involving exposure to the action of radioactive substances or ionising radiations.</td>
</tr>
<tr>
<td>8.</td>
<td>Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracence, or the compounds, products or residues of these substances.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>9.</td>
<td>Diseases caused by the toxic halogen derivatives of hydro carbons (of the aliphatic and aromatic series).</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>10.</td>
<td>Diseases caused by carbon disulphide.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>11.</td>
<td>Occupational cataract due to infra-red radiations.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>12.</td>
<td>Diseases caused by manganese or its toxic compounds.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>13.</td>
<td>Skin diseases caused by physical, chemical or biological agents (not included in other items).</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>14.</td>
<td>Hearing impairment caused by noise.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>15.</td>
<td>Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>16.</td>
<td>Disease caused by beryllium or its toxic compounds.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>17.</td>
<td>Diseases caused by cadmium or its toxic compounds.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>18.</td>
<td>Occupational asthma caused by recognised sensitising agents inherent to the work process.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>19.</td>
<td>Diseases caused by fluorine or its toxic compounds.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>20.</td>
<td>Diseases caused by nitroglycerine or other nitroacid esters.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>21.</td>
<td>Disease caused by alcohols and ketones.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td></td>
<td>Diseases caused by asphyxiants, carbon monoxide, and its toxic derivatives, hydrogen sulfide.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>---</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>23.</td>
<td>Lung cancer and mesotheliomas caused by asbestos.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>24.</td>
<td>Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>25.</td>
<td>Snow blindness in snow bound areas.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>26.</td>
<td>Disease due to effect of heat in extreme hot climate.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>27.</td>
<td>Disease due to effect of cold in extreme cold climate.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
</tbody>
</table>
# PART- C

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Occupational disease</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Pneumoconiosis caused by sclerogenic mineral dust (silicosis, anthraosilicosis, asbestosis). Silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death.</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>2.</td>
<td>Bagassosis</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>3.</td>
<td><strong>Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssinosis).</strong></td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>4.</td>
<td>Extrinsic allergic alveolitis caused by the inhalation of dusts.</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>5.</td>
<td><strong>Bronchopulmonary diseases caused by hard metals</strong></td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
<tr>
<td>6.</td>
<td>Acute Pulmonary Oedema of high altitude.</td>
<td>All work involving exposure to the risk concerned.</td>
</tr>
</tbody>
</table>
INDUSTRIES AND LABOUR DEPARTMENT
Sachivalaya, Bombay-32.
7th March, 1962

No.WCA.1161/91032-Lab. III.- The following notification by the Government of India, Ministry of Labour and Employment, New Delhi, is republished: dated New Delhi, the 9th December, 1961.

Compensation can be claimed after working for a total period indicated in the table below, with one or more employers in related employment:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Disease</th>
<th>Employment</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Silicosis</td>
<td>An employment involving exposure to the inhalation of dust containing silica.</td>
<td>Five years</td>
</tr>
<tr>
<td>2.</td>
<td>Coal Miners' pneumoconiosis</td>
<td>Any employment in coal mining.</td>
<td>Seven years.</td>
</tr>
<tr>
<td>3.</td>
<td>Asbestosis</td>
<td>Any employment in:-(i) the production of: a) fibro cement materials</td>
<td>Three years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>b) asbestos mill board; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii) the processing or ores containing asbestos.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Bagassosis</td>
<td>Any employment in the production of bagasse mill board or other article from bagasse</td>
<td>Three years.</td>
</tr>
</tbody>
</table>
Appendix-IV

AMOUNT OF COMPENSATION

In case of occupational accidents and diseases the amount of compensation depends on percentage of disablement.

The Act gives the calculations as follows. Apparently it is complicated but actually it is quite simple. We will try to simplify it as much as possible. Note that compensation amount depends on the age at the time of accident or disease. If the age is more, amount is less. This Act gives compensation for loss of earning capacity. If age is more then less years of earning remain and so compensation is less. A person who is seriously injured at age of 25 has 33 more years left up to retirement. So he gets more than a person who is injured at age of 50 years.

In calculation the age of the worker enters as 'the relevant factor'. This factor is given in Schedule IV. We are enclosing it here. You will see that at age of 25, relevant factor is 216.91 and at age of 50 it is only 155.09. This factor is taken into multiplication. We will also refer to it as the relevant factor.

**Age**: Completed years of age at the time of accident or disease.

**For Disease**: Age at first absence from work due to that occupational disease

OR

Age at the date of notice of disablement / claim of compensation, is considered as age in the calculation.

**SCHEDULE - IV**
(See Section 4)

Factors for working out lump sum equivalent of
compensation amount in case of permanent disablement and death.

<table>
<thead>
<tr>
<th>Completed years of age on the last birthday of the workman immediately preceding the date on which the compensation fell due</th>
<th>Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>228.54</td>
</tr>
<tr>
<td>17</td>
<td>227.49</td>
</tr>
<tr>
<td>18</td>
<td>226.38</td>
</tr>
<tr>
<td>19</td>
<td>225.22</td>
</tr>
<tr>
<td>20</td>
<td>224.00</td>
</tr>
<tr>
<td>21</td>
<td>222.71</td>
</tr>
<tr>
<td>22</td>
<td>221.37</td>
</tr>
<tr>
<td>23</td>
<td>219.95</td>
</tr>
<tr>
<td>24</td>
<td>218.47</td>
</tr>
<tr>
<td>25</td>
<td>216.91</td>
</tr>
<tr>
<td>26</td>
<td>215.28</td>
</tr>
<tr>
<td>27</td>
<td>213.57</td>
</tr>
<tr>
<td>28</td>
<td>211.79</td>
</tr>
<tr>
<td>29</td>
<td>209.92</td>
</tr>
<tr>
<td>30</td>
<td>207.98</td>
</tr>
<tr>
<td>31</td>
<td>205.95</td>
</tr>
<tr>
<td>32</td>
<td>203.85</td>
</tr>
<tr>
<td>33</td>
<td>201.66</td>
</tr>
<tr>
<td>34</td>
<td>199.40</td>
</tr>
<tr>
<td>35</td>
<td>197.06</td>
</tr>
<tr>
<td>36</td>
<td>194.64</td>
</tr>
<tr>
<td>37</td>
<td>192.14</td>
</tr>
<tr>
<td>38</td>
<td>189.56</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>39</td>
<td>186.90</td>
</tr>
<tr>
<td>40</td>
<td>184.17</td>
</tr>
<tr>
<td>41</td>
<td>181.37</td>
</tr>
<tr>
<td>42</td>
<td>178.49</td>
</tr>
<tr>
<td>43</td>
<td>175.54</td>
</tr>
<tr>
<td>44</td>
<td>172.52</td>
</tr>
<tr>
<td>45</td>
<td>169.44</td>
</tr>
<tr>
<td>46</td>
<td>166.29</td>
</tr>
<tr>
<td>47</td>
<td>163.07</td>
</tr>
<tr>
<td>48</td>
<td>159.80</td>
</tr>
<tr>
<td>49</td>
<td>156.47</td>
</tr>
<tr>
<td>50</td>
<td>153.09</td>
</tr>
<tr>
<td>51</td>
<td>149.67</td>
</tr>
<tr>
<td>52</td>
<td>146.20</td>
</tr>
<tr>
<td>53</td>
<td>142.68</td>
</tr>
<tr>
<td>54</td>
<td>139.13</td>
</tr>
<tr>
<td>55</td>
<td>135.56</td>
</tr>
<tr>
<td>56</td>
<td>131.95</td>
</tr>
<tr>
<td>57</td>
<td>128.33</td>
</tr>
<tr>
<td>58</td>
<td>124.70</td>
</tr>
<tr>
<td>59</td>
<td>121.05</td>
</tr>
<tr>
<td>60</td>
<td>117.41</td>
</tr>
<tr>
<td>61</td>
<td>113.77</td>
</tr>
<tr>
<td>62</td>
<td>110.14</td>
</tr>
<tr>
<td>63</td>
<td>106.52</td>
</tr>
<tr>
<td>64</td>
<td>102.93</td>
</tr>
<tr>
<td>65 or more</td>
<td>99.37</td>
</tr>
</tbody>
</table>
Appendix-V

CALCULATIONS

Section 4-1-a:

4-1-a accident or disease resulting in death of worker. Half of the wage is multiplied by the relevant factor. Wage is monthly wage. If the wage is more than Rs. 2000 per month only Rs. 2000 are considered as wage. This means that a worker having Rs. 3000 salary or Rs. 6000 salary or Rs. 2200 salary all get the same amount of compensation in Section 4-1-a, 4-1-b and 4-1-c.

Minimum compensation under 4-1-a is Rs. 50,000. Example: A worker earns Rs. 1000 per month. He dies in accident at age 25. In case of death, his dependants will get:

\[(\text{Half of 1000}) \times \text{Relevant Factor} \]
\[500 \times 216.91 = 1,08,455.00 \]

(Rupees one lakh eight thousand four hundred fifty five only).

If the salary was Rs. 400/- and death occurs at the age of 25, then his dependants will get:

\[(\text{Half of 400}) \times 216.91 \]
\[200 \times 216.91 = 23,382.00 \]

(Rupees Twenty three thousand three hundred eighty two only).

But the minimum amount of compensation is Rs. 50,000, so the dependants will get Rs. 50,000/-.

If the salary is Rs. 3500 or Rs. 2200 or Rs. 5000, in all cases, the salary is considered to be only Rs. 2000 per month.

Suppose the age was fifty years then,

\[(\text{Half of 2000}) \times \text{Relevant factor for age 50} \]
\[1000 \times 155.09 = \text{Rs. 1,55,090.00} \]

(Rupees one lakh fifty five thousand and Ninety only).
Section 4-1-b:

Section 4-1-b refers to when the worker is alive but has 100% disablement or permanent total disablement.

In this case the minimum is Rs. 60,000/- For the sake of calculations, sixty percent of wage is multiplied by the relevant factor as per age.

Say the salary is Rs. 1000 and the age of the worker is 25, then,

\[(\text{Sixty percent of 1000}) \times \text{Relevant factor for age 25}\]

\[600 \times 216.91 = 1,30,146.00\]

Rupees one lakh thirty thousand one hundred forty six only are due to the injured workman. One example is enough. Is it not?

Section 4-1-c:

This section refers to permanent partial disablement. A worker became partially deaf at 25 years of age due to noise at the work place. His disablement was assessed as 30% by a qualified medical practitioner. His compensation would be calculated as follows:

Sixty percent of monthly wage \( \times \) relevant factor multiplied by the percentage of disablement.

Even if the salary of the worker is Rs. 3000 per month, only Rs. 2000 will be considered.

\[(60\% \text{ of 2000}) \times \text{Relevant factor} \times 30\%\]

\[= 260292 \times 30/100 = 78,087.60\]

(Rupees Seventy eight thousand eighty seven and paise sixty only).

In case of 4-1-c we have three parts in multiplication:

a - Sixty percent of wage.

b - Relevant factor as per age.
c - Percentage of disablement.

\( \text{a x b x c} \) will give the amount of compensation
(A salary above Rs. 2000/- is disregarded in calculation).

The ceiling on salary for calculation is blatant injustice but
that is the law today.
Appendix-VI

Format for Notice to be given to the employer under the Workmen's Compensation Act

(If possible, seek advice from a dependable advocate while giving notice)

To:

........................................ (Name of the Employer / Company) ........................................

.......................................................... (Address) ..........................................................

I, the undersigned, ................................ (your name) (Address) ...................................

.......................................................... have to inform you that, I have worked for you from .................. (starting date) .......... to ............. (Current date/Last date) ............. I am suffering from (Description/Nature of diseases) ..................................

I am suffering from the disease because of ..........................................................
(Cause of disease, e.g. high noise level at workplace etc.)

I am suffering from the above diseases for the last ................... (Period for which diseases has been diagnosed) ..........................................................

I have ................ (Percentage of disability) ........... percent disability.

My monthly salary is ....................... (Salary amount) ..........................................................

My age is ........................................ (Age in years, months)

Please pay me ........................................ (Amount of compensation) ...................................

as compensation.

OR

From ......................... (Start date) ................. please pay me a fortnightly instalment of ................. (Amount of instalment) ..........................................................

.......................................................... as compensation.

.......................................................... (Your Signature)

.......................................................... (Your Name)

.......................................................... (Date and Place)

47
FORM F

[See rule 20]

APPLICATION FOR COMPENSATION BY WORKMAN

To the Commissioner for Workmen's Compensation.

............................................................ residing at ............................................................ applicant:

Versus

Address ..............................................................................................................................................

It is hereby submitted that-

1. The applicant workman employed by the opposite party on the day of 19 ............ received personal injury by accident arising out of and in the course of his employment.

The cause of the injury was (here insert briefly in ordinary language the cause of the injury)

......................................................................................................................................................

......................................................................................................................................................

2. The applicant sustained the following injuries, namely:-

......................................................................................................................................................

......................................................................................................................................................

3. The monthly wages of the applicant amount to Rs. ................. the applicant is over/under the age of 15 years.

4* (a) Notice of the accident was served on the...................... the day of ............................................................

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reasons of ............................................................

......................................................................................................................................................

5. The applicant is accordingly entitled to receive:

(a) Half monthly payment of Rs. ............ from the .............. day of ............................................................ 19 ................. to ........................................

48
6. The applicant has taken the following steps to secure a settlement by agreement, namely:

but it has proved impossible to settle the question in dispute because

* You are therefore requested to determine the following question in dispute namely:-

a. Whether the applicant is a workman within the meaning of the Act;

b. Whether the accident arose out of or in the course of the applicant's employment;

c. Whether the amount of compensation claimed is due or any part of that amount;

d. Whether the opposite party is liable to pay such compensation as is due;

e. etc. (As required)

Dated: .................. 19 ..............

Applicant

* Strike off which is not applicable
Appendix-VII

EMPLOYEES’ STATE INSURANCE CORPORATION
Form 16-A

Report from Employer in respect of Occupational Disease (Reg. 68)

1) Name of the Employer .............................................................

2) Code No.: ..............................................................................

3) Nature of industry or business ..............................................

4) a) Name of insured person ....................................................
    b) Insurance No.: .................................................................

5) Address of insured person ....................................................

6) a) Sex : ..................................................................................
    b) Age (at last birthday) : ....................................................... 

7) Name of occupational disease 
or its nature ...........................................................................

8) Date of commencement of 
   occupational disease ................................................................

9) Date of employment in factory 
of the insured person ................................................................

10) Specific employment in which 
    employed and its nature ........................................................

11) Date from which the insured 
person was continuously working 
in the employment at Col. 10 above 
    which caused the occupational disease ...................................

12) The exact period of continuous 
    employment as at Col. 10 above 
    before the commencement of 
    the spell of the occupational disease ......................................

13) Date of issue of medical certificate 
in respect of occupational disease ..............................................

14) Name of disease as given 
on medical certificate ...........................................................

50
15) i) Whether the insured person
    has abstained from work,
    if so, from what date .............................................

   ii) Whether insured person
       has returned to work,
       if so, from what date .............................................

16) a) Physician/Dispensary/Doctor
    from whom or where the insured
    person received or is receiving the treatment ......................

   b) Name of the dispensary/panel
      doctor selected by the insured person ............................

17) a) Has the insured person died? ...........................................

   b) If so, date of birth ....................................................

I certify that to the best of my knowledge and belief the above particulars
are correct in every respect.

Date of despatch of report: ..............................................

(Signature of the Occupier)
PRIA PUBLICATIONS

Occupational and Environmental Health

Diseases at Work II - Reference Sheets on Diseases for which Compensation may be claimed (English/Hindi)

This is the second set of reference sheets on diseases at the workplace, in which an attempt is made to disseminate information on industrial occurrence, signs and symptoms, diagnosis and special tests, if any, for each item in the schedule. The cumbersome steps and procedures involved in claiming compensation are covered separately in this set of reference sheets.

Reprinted 1995    Rs. 75/-

Diseases at Work III - A Story of Workers Struggle on Compensation for Silicosis (English/Hindi)

The third book in the series is an account of the workers’ struggle to claim compensation for silicosis, a disease caused by silica dust. The book, which is written in a reflective, story-telling mode, is prepared by one of the leaders of this struggle, who worked for “Alembic Glassworks” in Gujarat.

1992, 62pp    Rs. 50/-

Dust That Kills Slowly but Steadily (English/Hindi)

This booklet focuses on the major dust-related lung which have become the subject of debate and attention in the context of growing concern over occupational health and safety issues. It covers the diseases resulting due to the dust of silica, cotton, asbestos, mica, coal etc.

1990, 19pp    Rs. 10/-

Health at Workplace : Workers Experience (English/Hindi)

This book is the record of workers’ experiences and their struggles on the issue of workplace health and safety. In order to break the most common myth that “workers are careless and do not want to do anything to improve their working conditions”, this book narrates the experiences in the form of 35 case studies. Most of the cases are narrated by the workers themselves.

1992, 124pp    Rs. 40/-
An Untold Story: The Ongoing Struggle of Textile Workers in Ahmedabad (English/Hindi)

This book is the report of the workers' struggle undertaken for claiming compensation for byssinosis, which afflicted these workers during the tenure of their employment with cotton textile factories in Ahmedabad. The book is intended to provide a detailed account of the struggle, so that, other unions and activists undertake such actions in their respective areas.

1992, 37pp Rs. 25/-

An Activists Handbook of Occupational Health and Safety (English/Hindi)

This manual provides the latest information available on various types of occupational health and safety hazards. It covers almost all the occupations in India, as well as in South Asia. The range is from traditional industry to high-tech computer and chemical industry; from regular workers to women, children and contract workers.

1993, 223pp Rs. 150/-

The Danger Within (English)

This is an activity book on occupational health hazards and has been specially designed for use by schools and individuals. The areas include coal mining, textiles, pesticides, child-labour, chemicals, glass, construction workers, municipal workers and occupational health hazards in the office and at home. The book is designed so that the teacher might initiate a process of critically reflecting on social realities, which in turn, will encourage the students to become active agents of change.

1995 pp Rs. 100/-

Struggle for Justice (English/Hindi)

The series covers various facets of hazards faced by our workers, organised and unorganised. Our laws and safety regulations do not protect them. Many of our workers have organised to struggle collectively for changes at their workplace and their basic human rights. This series is dedicated to them and it includes the following:

A Hospital By The Workers And For The Workers
Chattisgarh Mines Shramik Sangh
Ahmedabad Electricity Company
Kolar Gold Mines
Municipal Mazdoor Union
A Fertiliser Factory
1995 Rs. 15 each Rs. 75 per set.

Diagnosis of Occupational Diseases (English)
This book gives the basic guidelines for diagnosing occupational diseases. In 1988, PRIA had published "Diseases at Work", which contained detailed information on the diagnosis of occupational diseases of Schedule III of the Workman's Compensation Act (1923) and Employees State Insurance Act (1948). This book was reviewed in 1995 and a document was published after discussions with eminent doctors from all over India. This book includes a list of diseases, with their symptoms and possible industrial occurrence, followed by guidelines for diagnosis.

Editors : Dr. Murlidhar V., Vijay Kanhere
Official Distributor : Bhalani Medical Book House, Medical Booksellers and Publishers, Mavawala Building, opp. KEM Hospital, Parel, Mumbai - 400012.

Year of Publication : December 1996
Price : Rs.100/-

Impairments, Disabilities and Their Assessment (English)
This document has been prepared after a year-long study of relevant literature by eminent doctors from all over India. The aim of this book is to evolve a comprehensive document of guidelines and to assess disability as a percentage loss of function of the entire human body in cases of occupational diseases and accidents. A review of the literature of the above subject, published in the last 60 years and case laws related to the subject from all over the world were put together in a "background paper" in 1995. The paper was circulated among doctors and occupational experts and this document was published after discussions and meetings with them.

Editors : Dr. Murlidhar V., Vijay Kanhere
Official Distributor : Bhalani Medical Book House, Medical Booksellers and Publishers, Mavawala Building, opp. KEM Hospital, Parel, Mumbai - 400012.

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Price : Rs. 100/-
Employees State Insurance Scheme (English/Hindi)
The Employees State Insurance Scheme, designed to be a workers' insurance scheme, provides certain benefits and compensation to workers in the event of sickness, employment-related injuries etc. This scheme has come under severe criticism from workers, trade unions and even managers, in some cases, for its inefficiency.

This booklet is written with the aim of providing information on the various facilities offered by ESI, and the inefficiencies reported in the scheme. Some data has been used from a study conducted by the Society for Participatory Research In Asia (PRIA) in 1995, in the cities of Ahmedabad, Calcutta, Delhi and Mumbai.

1996 Rs. 30/-

Bargaining Disease for Work (English)
Asia is a region of diversity. Besides geographical and cultural differences, the countries have great diversity in terms of their economic and industrial development, political ideologies and systems, administrative styles and work ethics. The only commonality in the whole region which transcends all diversities, is that the issue of occupational and environmental health is given low priority.

This book brings out the state of Occupational and Environmental Health in six countries of South Asian region. It is the outcome of a trip made by PRIA team members to Thailand, Philippines, Taiwan, Republic of Korea, Japan and Malaysia.

Authors: Harsh Jaitli, Vijay P. Kanhere
Year of Publication: October 1997
Price: USD 20/- or Rs. 100/-
PRIA

The Society for Participatory Research in Asia (PRIA) is an independent, non-profit, non-government organisation registered under the Society Registration Act 1860.

Over the last fifteen years PRIA has promoted people-centered development initiatives within the perspective of participatory research. As the cherished mission, PRIA endeavors to promote people-centered, holistic and comprehensive evolution of society characterised by Freedom, Justice, Equity and Sustainability, by

- creating opportunities of sharing, analysing and learning among formations of the Civil Society (in particular, people's organisation and NGOs);
- engaging in independent and critical analysis of societal trends and issues, development policies and programmes; and
- enabling dialogue across diverse perspectives, sectors and institutions.

The focal aim of PRIA's Centre for Occupational and Environmental Health is to promote and contribute towards making work and living place healthier and safer. On one hand the Centre collects information from networks, organisations and individuals through research studies, documentation and data bases and it on the other, disseminates information through Bulletin, publications, training/workshops and information service.

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