# **Workers Compensation**

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*Workers compensation* is an example of an early adoption of no-fault insurance. Under the current law, employers are responsible for any occupational accidents or injuries, and so they are required to provide compensation to their employees regardless of who is at fault.

In the past, workers had to sue their employers and provide proof that their employers were negligent in order to receive compensation in the case of an occupational injury or illness. It was tough for an employee to prove negligence due to three main reasons:

## • Doctrine of Contributory Negligence

If the employee contributed in any way to the accident or injury, the employee could not collect any indemnification from the employer.

#### Fellow-Servant Doctrine

Since negligence had to be on the part of the employer, the employee could not collect anything if the injury or accident was the result of the negligence of a fellow worker.

### Assumption-of-Risk Doctrine

The employer might not be held liable if it could be proven that the employee, to an extent, was aware of the inherent risks of the work.

Here are a few objectives of workers compensation:

- Provides employees with broad coverage for work-related injuries and diseases.
- Protects employees against loss of income.
- Ensures adequate health care and rehabilitation services.
- Encourages safety by lowering premiums for employers with good claims experience.

In most U.S. states, employers are required by law to have some form of workers compensation. Employers obtain this coverage either through **private insurers**, by **self-insurance**, or using **state-funded workers compensation**. In states where workers compensation is not mandatory, employers are exposed to litigation by their employees in cases of injuries or diseases. Some other states may exclude educational, charitable, or religious organizations from the workers compensation requirement. In general, most salaried workers are covered by workers compensation, while farm laborers, domestic servants, and employees of very small firms typically are not.

To receive indemnification for an injury or disease under workers compensation, a worker must

- 1. work in a **covered occupation**; and
- 2. have an injury or disease that was a result of the **course of employment**.

It gets a little tricky to determine if a disease is covered; conditions must arise from constant exposure over time in relation to employment. Examples of possible conditions are carpal tunnel syndrome, hearing loss, and asbestosis. Examples of situations that are not covered under workers compensation are injuries or illnesses arising from driving to and from work, employee intoxication, and intentional self-inflicted injuries.

Benefits typically provided by workers compensation include:

#### Medical care benefits

Workers compensation usually has unlimited medical care benefits (no limit on dollar amount or duration).

## Disability income benefits

The disability benefit depends on two factors: the worker's average weekly salary and the degree of disability. The benefit is usually a percentage of the worker's average weekly salary. Disability can be categorized as (1) temporary but total, (2) permanent and total, (3) temporary and partial, or (4) permanent but partial.

Most states also have minimum and maximum weekly benefits, which are usually determined from the state's average industrial wage. These benefits are typically non-taxable income.

#### Death benefits

#### Rehabilitation services and benefits

In the U.S., these benefits are mostly paid by private insurers or self-insured employers. For large companies insured by private insurers, their premium is a function of many factors such as payroll and industry class. For small companies, their premium is usually set at the same rate as companies with a similar industry classification. This is known as *class rating*. The administrative costs related to workers compensation are mostly paid by the employers; however, in some states, they are covered by a government agency.

# **Workers Compensation in Other Countries**

In Canada, workers compensation is administered separately in each province by a Workers Compensation Board. Unlike the United States, most of the rest of the world have workers compensation programs administered by a government