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**SUPPLEMENT**

*(Issued on 24.01.2022)*



**WORKMEN'S COMPENSATION (AMENDMENT)**

**A**

**BILL**

**to amend the Workmen's Compensation Ordinance (Chapter 139)**

*Ordered to be published by the Minister of Labour*

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#### *STATEMENT OF LEGAL EFFECT*

*Clause 2* : This clause amends the long title of the Workmen's Compensation Ordinance (Chapter 139) (hereinafter referred to as the "principal enactment") and the legal effect of that section as amended is to expand the scope of the Act, by providing for payment of compensation to the workmen who are injured while coming from their place of residence to the work place or while returning back to their residence from the work place.

*Clause 3* : This clause amends section 2 of the principal enactment and is consequential to the amendment made by the clause 2.

*Clause 4* : This clause amends section 3 of the principal enactment and is consequential to the amendment made by the clause 2.

*Clause 5* : This clause amends section 4 of the principal enactment and is consequential to the amendment made by the clause 2.

*Clause 6* : This clause amends section 5 of the principal enactment and is consequential to the amendment made by the clause 2.

*Clause 7* : This clause inserts new section 6A in the principal enactment to enable the nature of employment to be taken into consideration in calculating the compensation in case of a permanent or partial disablement.

*Clause 8* : This clause amends section 7 of the principal enactment and the legal effect of that section as amended is to provide for the manner for calculation of the monthly salary of a daily paid or piece rated workman.

*Clause 9* : This clause amends section 11 of the principal enactment to increase the advance payable by the employer to the dependents of a deceased workman.

*Clause 10* : This clause amends section 12 of the principal enactment and the legal effect of that section as amended is to provide for the Commissioner–

- (i) to deduct the actual funeral expense of the deceased workman (upto Rs. 100,000/=) from the advance and to pay the same to the person by whom that expenses were incurred; and
- (ii) to determine the distribution of the compensation among the dependents of a deceased workman or to repay the same to the employer if there are no dependents.

*Clause 11* : This clause amends section 16 of the principal enactment and the legal effect of that section as amended is to provide for the payment of compensation if the claim for compensation has been instituted within two years of the occurrence of the accident or the death.

*Clause 12* : This clause amends section 18 of the principal enactment and the legal effect of that section as amended is to increase the fine and to provide for the employer to maintain a record book of every accident took place in the factory or work place.

*Clause 13* : This clause amends section 20 of the principal enactment and is consequential to the amendment made by the clause 2 and the legal effect of that section as amended is to provide for the Commissioner to determine a funeral expenditure of less than fifty thousand rupees payable by the employer for a deceased workman.

*Clause 14* : This clause replaces section 23A of the principal enactment and the legal effect of the replaced section is to provide for the manner of calculation of the surcharge payable by an employer who fails or defaults the payment of compensation to a workman or his heirs

*Clause 15* : This clause inserts new section 27A in the principal enactment to provide for the appointment of a Registrar of Workmen's Compensation.

*Clause 16* : This clause amends section 41 of the principal enactment and the legal effect of that section as amended is to provide for the procedure of recovery of a default sum by the seizure or sale of immovable property of the defaulter.

*Clause 17* : This clause amends section 44 of the principal enactment and the legal effect of that section as amended is to provide for that a miscalculation or understatement of the amount of compensation payable to a workman is a ground for cancellation of a memorandum of understanding registered under section 42.

*Clause 18* : This clause amends section 45 of the principal enactment to increase the fine specified in that section.

*Clause 19* : This clause amends section 46 of the principal enactment to increase the fine specified in that section.

*Clause 20* : This clause amends section 49 of the principal enactment to increase the value of stamp fee for filing a petition of appeal.

*Clause 21* : This clause amends section 52 of the principal enactment and the legal effect of that section as amended is to provide for the High Court to hear any question of law submitted for opinion under section 39 of the principal enactment.

*Clause 22* : This clause amends section 53 of the principal enactment and is consequential to the amendment made by clause 21.

*Clause 23* : This clause amends section 57 of the principal enactment and is consequential to the amendment made by clause 2.

*Clause 24* : This clause amends section 59 of the principal enactment and is consequential to the amendment made by clause 2.

*Clause 25* : This clause amends section 60A of the principal enactment and is consequential to the amendment made by clause 2.

*Clause 26* : This clause replaces Schedule I of the principal enactment and the new Schedule increases the amounts of loss the earning capacity by which the payment of compensation for permanent or partial disablement occurred by certain injuries is based.

*Clause 27* : This clause replaces Schedule IV of the principal enactment and the new Schedule increases the amounts of monthly wages of an injured workman which is the basis for payment of compensation, and amount of compensation payable in case of a death, permanent total disablement and, half monthly compensation for temporary disablement of workman.

*Workmen's Compensation (Amendment)*

L.D.—O. 62/2018

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ORDINANCE  
(CHAPTER 139)

BE it enacted by the Parliament of the Democratic Socialist  
Republic of Sri Lanka as follows: -

1. This Act may be cited as the Workmen's Compensation (Amendment) Act, No. .... of 2022. Short title

5      2. The long title to the Workmen's Compensation Ordinance (Chapter 139) (hereinafter in this Act referred to as the "principal enactment") is hereby amended by the substitution, for the words "who are injured in the course of their employment." of the words "who are injured in the course of their employment or while coming from their place of residence to the work place or while returning back to their place of residence from the work place." Amendment  
of the long  
title of  
(Chapter 139)

15      3. Section 2 of the principal enactment is hereby amended by the insertion immediately after the definition of the expression "partial disablement" of the following definition:— Amendment  
of section 2  
of the  
principal  
enactment

20      "“place of residence” includes any permanent place of residence of a workman or a boarding house or any other place where a workman resides temporarily for the purpose of coming to his workplace;”.

25      4. Section 3 of the principal enactment is hereby amended by the substitution for the words “in the course of his employment,” of the words “in the course of his employment or by an accident took place while coming from his place of residence to the work place or while returning back to his residence from the work place,”. Amendment  
of section 3  
of the  
principal  
enactment

5. Section 4 of the principal enactment is hereby amended by the substitution for the words "in the course of his employment." of the words "in the course of his employment or took place while coming from his place of residence to the work place or while returning back to his residence from the work place.".

Amendment  
of section 4  
of the  
principal  
enactment

6. Section 5 of the principal enactment is hereby amended by the substitution for the words "in the course of his employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place, or while returning back to his residence from the work place.".

Amendment  
of section 5  
of the  
principal  
enactment

7. The following new section is hereby inserted immediately after section 6 of the principal enactment and shall have effect as section 6A of that enactment:—

Insertion of  
section 6A in  
the principal  
enactment

6A. Notwithstanding anything contained in section 6, in the case of permanent or partial disablement, the nature of employment of a workman in relation to any injury shall be taken into consideration in calculating the amount of compensation. Such compensation shall be based on the medical report issued by the relevant doctor.".

8. Section 7 of the principal enactment is hereby amended in subsection (1) of that section by the insertion immediately after paragraph (c) thereof of the following paragraph:—

Amendment  
of section 7  
of the  
principal  
enactment

“(d) in the case of a daily paid or piece rated workman, the monthly wages of such workman shall be the aggregate of earnings of daily payments or piece rates for the last twelve months during which such

workman has been in service immediately preceding the accident, divided by twelve and again divided by twenty five.”.

5       **9.** Section 11 of the principal enactment is hereby Amendment  
amended in the proviso to subsection (1), by the substitution of section 11  
for the words “not exceeding an aggregate of ten thousand of the  
rupees,” of the words “not exceeding an aggregate of twenty principal  
thousand rupees,” enactment

10       **10.** Section 12 of the principal enactment is hereby Amendment  
amended by the repeal of subsection (1) and the substitution of section 12  
therefor of the following:– of the  
principal  
enactment

15       “(1) On the deposit of any money under section 11 as  
compensation in respect of a deceased workman, the  
Commissioner shall deduct therefrom the actual cost of  
the workman’s funeral expenses to an amount not  
exceeding one hundred thousand rupees and pay the same  
to the person by whom such expenses were incurred.

20       (1A) The Commissioner shall cause a notice to be  
served on each dependent of the deceased resident in  
Sri Lanka, requesting such dependents to appear before  
him on such date as he may fix, to determine the distribution  
of the compensation. If the Commissioner is satisfied, after  
any inquiry which he may deem necessary, that no  
dependent exists, he shall repay the balance of the money  
to the employer by whom it was paid, but no such  
repayment shall be made until after the expiry of a period  
of twelve months reckoned from the date on which the  
money was deposited under section II. The Commissioner  
shall on application by the employer, furnish a settlement  
of all disbursements made.”.

11. Section 16 of the principal enactment is hereby amended in subsection (1), by the substitution for the words "within two years of the occurrence of the accident" of the words "within two years of the occurrence of the accident or  
5 in case of death, within two years from the date of death."

Amendment  
of section 16  
of the  
principal  
enactment

12. Section 18 of the principal enactment is hereby amended as follows:—

Amendment  
of section 18  
of the  
principal  
enactment

(1) in subsection (2) thereof, by the substitution for the words "fine not exceeding five hundred  
10 rupees." of the words "fine not exceeding one hundred thousand rupees."

(2) immediately after subsection (2), by the insertion of the following:—

15 " (3) Every employer shall maintain, in addition to the notice book specified in subsection (1), a record book, in which information and details of any accident at any factory or work place is included. The employer shall also appoint  
20 a responsible person to be in charge of such record book. The Commissioner shall have access to such record book and call for extracts or copies thereof for inspection."

13. Section 20 of the principal enactment is hereby amended as follows:—

Amendment  
of section 20  
of the  
principal  
enactment

25 (1) In subsection (1) thereof by the substitution for the words "in the course of his employment," for the words "in the course of his employment or while coming from his place of residence to the work place or while returning back to his residence from  
30 the work place,";

- (2) Immediately after subsection (4) thereof, by the insertion of the following:—

5 “(5) The Commissioner may determine  
a sum which is not more than fifty thousand  
rupees payable by the employer as funeral  
expenditure of the deceased workman. Such  
sum shall be in addition to the  
compensation payable by the employer and  
be deposited with the Commissioner or the  
10 next of kin of such workman, by the relevant  
employer.”.

**14.** Section 23A of the principal enactment is hereby repealed and the following new section is substituted therefor:—

Replacement  
of section  
23A of the  
principal  
enactment

15 “Imposition of surcharge on employer for failure to pay compensation on due date” 23A. Any employer who, being liable to pay any sum due as compensation to a workman or his heirs, as the case may be, under this Act, fails or defaults to pay that sum, on or before the due date, he shall be liable to pay to that workman or his heirs, as the case may be, in addition to the sum due as compensation, a surcharge on that sum calculated in the following manner:—

25 (a) where the payment of the compensation has been in arrears for a period not exceeding one month from the due date, a surcharge of ten *per centum* of the sum due as compensation;

30 (b) where the payment of the compensation has been in arrears for a period exceeding one month but not exceeding three months from the due date, a surcharge of fifteen *per centum* of the sum due as compensation;



- 5 (c) where the payment of the compensation has been in arrears for a period exceeding three months but not exceeding six months from the due date, a surcharge of twenty *per centum* of the sum due as compensation;
- 10 (d) where the payment of the compensation has been in arrears for a period exceeding six months but not exceeding twelve months from the due date, a surcharge of twenty-five *per centum* of the sum due as compensation; or
- 15 (e) where the payment of the compensation has been in arrears for a period exceeding twelve months from the due date, a surcharge of thirty *per centum* of the sum due as compensation.”.

20 **15.** The following new section is hereby inserted immediately after Section 27 of the principal enactment and shall have effect as Section 27A of that enactment:—

Insertion of section 27A in the principal enactment

“Appointment of a Registrar 27A. There shall be appointed by the Judicial Service Commission, a Registrar of Workmen's Compensation for the purpose of this Act.”.

**16.** Section 41 of the principal enactment is hereby amended by the repeal of subsection (2) and the substitution therefor of the following:—

Amendment of section 41 of the principal enactment

30 “(2) If any sum referred to in subsection (1) cannot be recovered in the manner specified in that subsection, the Commissioner may make an order for the recovery of such sum by the seizure or sale of immovable property of the defaulter. The registrar of workmen's compensation, appointed under section 27A, shall execute such order through the registrar of the relevant District Court within whose jurisdiction such defaulter resides. The provisions

of the Civil Procedure Code (Chapter 101) relating to the seizure and sale of immovable property by the Fiscal in the execution of a Writ issued by a court and to the making and adjudication of claims in respect of immovable property seized by the Fiscal shall apply to the seizure and sale of immovable property for the recovery of the sum specified in the Commissioner's order, made by the Commissioner under this subsection and to the making and adjudication of claims in respect of immovable property seized for the recovery of such sum. For the purpose of application of such provisions the sum so specified shall be deemed to be due on a decree entered by the court and the Commissioner shall be deemed to be the judgment-creditor and the person liable to pay such sum shall be deemed to be a judgment-debtor.”.

**17.** Section 44 of the principal enactment is hereby amended by the substitution for the words “fraud or undue influence or other improper means,” of the words “fraud, undue influence or othr improper means, or due to the miscalculation or underestimation of the amount of compensation payable to the workman under the memorandum of agreement,”.

Amendment  
of section 44  
of the  
principal  
enactment

**18.** Section 45 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “to a fine not exceeding one thousand rupees.” of the words “to a fine not exceeding one hundred thousand rupees.”.

Amendment  
of section 45  
of the  
principal  
enactment

**19.** Section 46 of the principal enactment is hereby amended by the substitution for the words “to a fine not exceeding one hundred rupees.” of the words “to a fine not exceeding one hundred thousand rupees.”.

Amendment  
of section 46  
of the  
principal  
enactment

20. Section 49 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words "value of one hundred rupees" of the words "value of two thousand rupees". Amendment of section 49 of the principal enactment
- 5 21. Section 52 of the principal enactment is hereby amended by the substitution for the words "The Court of Appeal", of the words and figures "The High Court established under article 154P of the Constitution". Amendment of section 52 of the principal enactment
- 10 22. Section 53 of the principal enactment is hereby amended by the substitution, for the words "by the Court of Appeal", of the words and figures "by the High Court established under article 154P of the Constitution". Amendment of section 53 of the principal enactment
- 15 23. Section 57 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words "in the course of his employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place or while returning back to his residence from the work place.". Amendment of section 57 of the principal enactment
- 20 24. Section 59 of the principal enactment is hereby amended by the substitution for the words "in the course of the employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place or while returning back to his residence from the work place, shall be". Amendment of section 59 of the principal enactment
- 25 25. Section 60A of the principal enactment is hereby amended by the substitution for the words "in the course of the employment," of the words "in the course of employment or by an accident took place while coming from his place of residence to the work place or while returning back to his residence from the work place.". Amendment of section 60A of the principal enactment
- 30

25. Section 60A of the principal enactment is hereby amended by the substitution for the words "in the course of the employment," of the words "in the course of the employment or by an accident took place while coming  
5 from his place of residence to the work place or while returning back to his residence from the work place".

Amendment  
of section  
60A of the  
principal  
enactment

26. Schedule I of the principal enactment is hereby repealed and the following Schedule substituted therefor:—

Replacement  
of Schedule I  
of the  
principal  
enactment

"Schedule I

(section 2)

List of injuries deemed to result in permanent/partial disablement

| <i>Injury</i>  | <i>Percentage of loss<br/>of earning<br/>capacity</i> |
|--|---|
| Permanent and incurable paralysis of the limbs or injuries resulting in being permanently bedridden                                    | 100   |
| Permanent incurable loss of mental capacity resulting in fatal incapacity to work or any other injury causing fatal incapacity to work | 100   |
| Eye Injuries   |   |
| (i) Total loss of sight in both eyes   | 100   |
| (ii) Total loss of sight in one eye  | 80  |
| Hearing Injuries   |   |
| (i) Total loss of hearing  | 80  |
| (ii) Total loss of hearing in one ear  | 50  |

10      *Workmen's Compensation (Amendment)*

Loss of Speech

|                          |     |
|--------------------------|-----|
| (i) Total loss of speech | 100 |
|--------------------------|-----|

Sensory Loss

|  |    |
|--|----|
| (i) Total loss of sense of smell & taste | 60 |
| (ii) Total loss of sense of smell        | 60 |
| (iii) Total loss of senses of taste      | 60 |

Arm Injuries

|                                    |    |
|------------------------------------|----|
| (i) Loss of arm at or above elbow  | 85 |
| (ii) Loss of arm at or below elbow | 80 |

Hand Injuries

|   |     |
|---|-----|
| (i) Loss of both hands                            | 100 |
| (ii) Loss of hand or loss of thumb & four fingers | 80  |
| (iii) Loss of thumb (both phalanges)              | 50  |
| (iv) Loss of thumb (one phalanx)                  | 40  |
| (v) Loss of four fingers                          | 80  |

Loss of Index finger

|                     |    |
|---------------------|----|
| (i) Three phalanges | 50 |
| (ii) Two phalanges  | 40 |
| (ii) One phalanx    | 20 |

Loss of middle, ring and little fingers

|                     |    |
|---------------------|----|
| (i) Three phalanges | 30 |
| (ii) Two phalanges  | 20 |
| (ii) One phalanx    | 15 |

Loss of Leg

- |                       |    |
|-----------------------|----|
| (i) at or above knee  | 90 |
| (ii) at or below knee | 80 |

Foot Injuries

- |                       |     |
|-----------------------|-----|
| (i) Loss of both feet | 100 |
| (ii) Loss of one foot | 90  |

Loss of Toes

- |  |    |
|--|----|
| (i) Great toe-both phalanges                               | 40 |
| (ii) Great toe-one phalanx                                 | 20 |
| (iii) Other than great toe, if more than<br>one lost, each | 20 |

Miscellaneous

- |   |        |
|---|--------|
| (i) Total loss of genitals  | 75     |
| (ii) Partial loss of genital  | 60     |
| (iii) Severe facial scarring or disfigurement   | 90     |
| (iv) Severe bodily disfigurement, other than<br>facial scarring or disfigurement to<br>a maximum of   | 60     |
| (v) Loss of single tooth  | 10     |
| (vi) Loss of any member or part thereof not<br>mentioned above (e.g. nose, breast, ear etc.)<br>to be assessed by a medical officer up to<br>a maximum of | 60 .”. |

27. Schedule IV of the principal enactment is hereby repealed and the following Schedule substituted therefor:—

Replac of  
Schedule IV  
of the  
principal  
enactment

“Schedule IV (Section 6)

Amount of Compensation Payable

| <i>Monthly wages of the workman injured</i> |            | <i>Death of workman</i> | <i>Permanent disablement of workman</i> | <i>Half monthly compensation for temporary disablement of workman</i> |
|---|------------|-------------------------|---|---|
| <i>Rs.</i>                                  | <i>Rs.</i> | <i>Rs.</i>              | <i>Rs.</i>                              | <i>Rs.</i>  |
| 0   | 10,000     | 1,140,000               | 1,200,000                               | 5,000   |
| 10,001                                      | 12,500     | 1,180,000               | 1,240,000                               | 5,625   |
| 12,501                                      | 15,000     | 1,220,000               | 1,280,000                               | 6,875   |
| 15,001                                      | 17,500     | 1,260,000               | 1,320,000                               | 8,125   |
| 17,501                                      | 20,000     | 1,300,000               | 1,360,000                               | 9,375   |
| 20,001                                      | 22,500     | 1,340,000               | 1,400,000                               | 10,625  |
| 22,501                                      | 25,000     | 1,380,000               | 1,440,000                               | 11,875  |
| 25,001                                      | 27,500     | 1,420,000               | 1,480,000                               | 13,125  |
| 27,501                                      | 30,000     | 1,460,000               | 1,520,000                               | 14,375  |
| 30,001                                      | 35,000     | 1,510,000               | 1,570,000                               | 16,250  |
| 35,001                                      | 40,000     | 1,560,000               | 1,630,000                               | 18,750  |
| 40,001                                      | 45,000     | 1,610,000               | 1,680,000                               | 21,250  |
| 45,001                                      | 50,000     | 1,660,000               | 1,730,000                               | 23,750  |
| 50,001                                      | 55,000     | 1,710,000               | 1,780,000                               | 26,250  |
| 55,001                                      | 60,000     | 1,760,000               | 1,830,000                               | 28,750  |
| 60,001                                      | 70,000     | 1,820,000               | 1,890,000                               | 32,500  |
| 70,001                                      | 80,000     | 1,880,000               | 1,960,000                               | 37,500  |
| 80,001                                      | 90,000     | 1,940,000               | 2,000,000                               | 42,500  |
| 90,001                                      | 100,000    | 2,000,000               | 2,000,000                               | 47,500  |
| 100,000                                     | and above  | 2,000,000               | 2,000,000                               | 47,500  |

.”.

**28.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text  
to prevail in  
case of  
inconsistency



