

4.6.2 The Employees' State Insurance Act (ESI Act)

ESI Act for India is an integrated social security act tailored to provide social protection to workers and their dependents, in the organised sector, in contingencies, such as Sickness, Maternity and Death or Disablement due to an employment injury or Occupational hazard.

- ESI Act provides certain benefits to employees in case of sickness, maternity and employment injury.
- This Act extends to the whole of India. It shall apply, to all factories other than seasonal factories.
- Employees' State Insurance Corporation shall be established for the administration of the scheme of Employees State Insurance.

- Employees' State Insurance Fund : All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund
- All employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act.

(A) Contributions :

The contribution payable shall comprise contribution payable by the employer and contribution payable by the employee and shall be paid to the Corporation. The contributions shall be paid at such rates as may be prescribed by the Central Government.

(B) Benefits :

The insured persons shall be entitled to the following benefits :

1. **Sickness Benefit** : Periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner.
2. **Maternity benefit** : Periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage.
3. **Disablement benefit** : Periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act.
4. **Dependents benefit** : Periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act.
5. **Medical benefit** : An insured employee and his family members are entitled to receive medical benefit in the form of treatment and attendance at an E.S.I hospital
6. **Funeral expenses** : Payment to the eldest surviving member of the family of an insured person who has died (or the person who actually incurs the expenditure of funeral), towards the expenditure on the funeral of the deceased insured person.

(C) Disablement Benefit

- (a) a person who sustains temporary disablement for not less than three days (excluding the day of accident) shall be entitled to periodical payment at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government ;

- (b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment at such rates and for such period and subject to such conditions as may be prescribed by the Central Government

(D) Dependents Benefit

- (1) If an insured person dies as a result of an employment injury sustained as an employee under this Act (whether or not he was in receipt of any

periodical payment for temporary disablement in respect of the injury) dependants' benefit shall be payable at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government to his dependants

(E) Occupational Disease :

If an employee contracts any disease specified therein as an occupational disease peculiar to that employment be deemed to be an "employment injury" arising out of and in the course of employment.

(F) Employer not to dismiss or punish employee during period of sickness etc. :

No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit.

(G) Penalties

Punishment for false statement : Whoever, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding two thousand rupees, or with both.

Punishment for failure to pay contributions, etc. : If any person – (a) fails to pay any contribution which under this Act he is liable to pay, or (b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, he shall be punishable with imprisonment for a term which may extend to three years and a fine of ₹ 5000/- or ₹ 10,000/-

(H) Prosecutions :

No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner.

4.6.3 The Workmen's Compensation Act

(S-10) (8M)

The Act provides for the payment by certain classes of employers to their workmen of compensation for injury by accident.

The Act extends to the whole of India and is applicable to factories and establishments engaged in manufacturing, servicing, transporting, selling, construction, oil extraction, mining etc. as listed in the schedule II and III of the act. Establishments to which ESI Act is applicable are outside the purview of this act.

Definitions :

1. Compensation means compensation as provided for by this Act.
2. Dependant means any of the following relatives of a deceased workman, namely a widow, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother.
3. Minor means a person who has not attained the age of 18 years.

4. Partial disablement means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time.
5. Total disablement means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement.
6. Wages includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance.

Employer's Liability for Compensation

(W-09) (4M)

1. If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Act.
Provided that the employer shall not be so liable —
 - in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding three days;
 - in respect of any injury, not resulting in death, caused by an accident which is directly attributable to —
 - (i) the workman having been at the time thereof under the influence of drink or drugs, or
 - (ii) the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.
2. If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment.

Amount of Compensation

1. Where death results from the injury an amount equal to forty percent of the monthly wages of the deceased workman multiplied by the relevant factor; or an amount of twenty thousand rupees, whichever is more;
2. Where permanent total disablement results from injury an amount equal to fifty per cent of the monthly wages of the injured workman multiplied by the relevant factor; or an amount of twenty-four thousand rupees, whichever is more;
3. In case of permanent partial disablement, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury.

Compensation to be paid when due and penalty for default

1. Compensation shall be paid as soon as it falls due.
2. In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman.
3. Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty per cent of such amount, shall be recovered from the employer by way of penalty.

4.6.4 The Industrial Disputes Act

(A) Objective :

The main objective of the act is to make provision for the investigation and settlement of industrial disputes by negotiations, conciliation etc. instead of by a trial of strength through strikes and lockouts.

The objectives are achieved by :

1. Providing a suitable machinery for the settlement of industrial disputes.
2. Promoting measures for securing and preserving good relations between employers and employees.
3. Preventing illegal strikes and lockouts.
4. Providing relief to workers against layoffs, retrenchment, wrongful dismissal and victimization.
5. Promoting collective bargaining.
6. Improving the conditions of workers.
7. Avoiding unfair labour practices.

(B) Definitions

1. **Conciliation officer** means a conciliation officer appointed under this Act;
2. **Conciliation proceeding** means any proceeding held by a conciliation officer or Board under this Act
3. **Court** means a Court of Inquiry constituted under this Act;
4. **Industrial dispute** means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.
5. **Lock-out** means the temporary closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.

6. **Settlement** means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at.
7. **Strike** means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment
8. **Workman** means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work.

(C) Causes of Industrial Disputes

(W-09) (4M)

Various causes of an industrial dispute are :

1. Demand for higher wages and allowances.
2. Demand for payment of bonus and the rate of bonus.
3. Demand for higher social security benefits.
4. Demand for good and safer working conditions, including length of a working day, the interval and frequency of leisure and physical work environment.
5. Demand for improved labour welfare and other benefits. For example, adequate canteen, rest, recreation and accommodation facility, arrangements for travel to and from distant places etc.
6. Psychological factors such as denial of opportunity to the worker for satisfying his/her basic urge for self-expression, personal achievement and betterment.

(D) Authorities Under This Act

(W-10) (8M)

1. **Works Committee** : Works Committee consists of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer.
2. **Conciliation officers** : The appropriate Government may appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.
3. **Boards of Conciliation** : The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute. A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit. The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute.

4. **Courts of Inquiry** : The appropriate Government may constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

5. **Labour Courts** : The appropriate Government may constitute one or more Labour Courts for the adjudication of industrial disputes. A Labour Court shall consist of one person only to be appointed by the appropriate Government. A person appointed as the presiding officer of a Labour Court, should be a Judge of a High Court; or he has, been a District Judge or an Additional District Judge for more than three years

6. **Tribunals** : The appropriate Government may, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter.

A Tribunal shall consist of one person only to be appointed by the appropriate Government. A person shall not be qualified for appointment as the presiding officer of a Tribunal unless - he is, or has been, a Judge of a High Court; or he has, for a period of not less than three years, been a District Judge or an Additional District Judge

7. **National Tribunals** : The Central Government may, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

A National Tribunal shall consist of one person only to be appointed by the Central Government. A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless he is, or has been, a Judge of a High Court.

(E) Notice of change :

No employer, who proposes to effect any change in the conditions of service applicable to any workman shall effect such change without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected.

(F) Settlement of Industrial Disputes :

There are two types of Industrial Disputes-interest disputes and rights disputes.

1. Interest disputes relate to determination of new wage level and other condition of employment.

2. Whereas rights disputes is related to interpretation and application of existing standards. Such disputes are also described as grievance disputes. Such grievances may be regarding retrenchment, dismissal, payment of wages, working time, overtime, demotion, promotion, transfer, seniority, job classification, work rules and fulfillment of obligation relating to safety and health laid down in an agreement.

Procedures for settling Industrial disputes:

Various methods for settlement of industrial disputes are - *Collective Bargaining, Negotiation, Conciliation and Mediation, Arbitration and Adjudication.*

1. **Collective Bargaining :** Collective bargaining is a process of bargaining between employers and workers, by which they settle their disputes relating to employment or non-employment, terms of employment or conditions of the labour of the workman, among themselves.

Occasionally, such bargaining results in an amicable settlement between the parties. But quite often, the workers and employers have to apply pressure tactics of strikes and lockouts, which makes both the sides aware of the strength of one another and that finally forces each of them to arrive at a settlement in mutual interest. It is thus the respective strength of the parties which determine the issue.

The final outcome of bargaining may also depend upon the skill of displaying the strength by the representatives of one party to the other.

2. **Negotiation:** Negotiation is one of the principal means of settling labour disputes. However, due to lack of trust between the employers and workmen or their trade unions or inter-rivalry of the trade unions and the employers being in a commanding position, many a time negotiations fail.

3. **Conciliation and Mediation:** Through conciliation and mediation a third party provides assistance to help the parties to reach an agreement. The conciliator brings the rival parties together discuss with them their differences and assist them in finding out solution to their problems.

Mediator on the other hand is more actively involved while assisting the parties to find an amicable settlement. Sometimes he submits his own proposals for settlement of their disputes.

4. **Arbitration:** Section 10 A of the Act provides only for voluntary reference of dispute to arbitration. In case of voluntary arbitration, the dispute can be referred for arbitration only if the parties agree to the same and the award given by the arbitrator becomes binding on the parties to the dispute.

5. **Adjudication:** If no settlement is arrived at between employer and the workman, despite efforts of the conciliation officer, The Industrial Disputes Act provides for a three tier system of adjudication viz. Labour Courts, Industrial Tribunals and National Tribunals.

(a) **Labour Courts** have been empowered to decide disputes relating to matters concerned with the rights of workers, discharge or dismissal of workman including reinstatement of grant of relief to workman wrongfully discharged

or dismissed, withdrawal of any customary concession or privilege and illegality or otherwise of a strike or lockout.

- (b) **The industrial tribunal** are empowered to adjudicate on matters of both rights and interest disputes. The jurisdiction of the Industrial Tribunal is wider than the labour courts.
- (c) **National Tribunals:** In case of disputes which in the opinion of the Central Government involve question of national importance or is of such nature that workers in more than one State are likely to be affected. The Act provides for constitution of National Tribunals.

Highlights and Review

1. **Personnel Management (HRM)** : "HRM is the art of acquiring, developing, and maintaining the competent workforce in order to achieve and accomplish the organizational goal with maximum efficiency and economy".
2. The aim of HRM is to make optimum use of Human Resource (HR).
3. **The objectives of HRM are :**
 - (a) To secure appropriate people capable of performing specific tasks.
 - (b) To utilize the HR effectively and
 - (c) To provide maximum individual development for employees in the organization.
4. **The functions of HRM** : Anticipate future manpower requirements, select persons, ensure proper orientation, provide fair wages, develop an effective appraisal system, organize suitable training programmes, ensure effective communication throughout the organization, install incentive schemes, boost employee morale, ensure that competent and qualified employees stay in the organization and establish healthy and respectful relations with trade unions etc.
5. **Steps in HR planning :**
 - (a) Analyzing the current manpower inventory.
 - (b) Making future manpower forecasts.
 - (c) Planning job requirements and descriptions.
 - (d) Developing employment programmes.
 - (e) Designing training programmes.
6. **The recruitment and selection procedure :**
 - (a) Identifying the vacancy.
 - (b) Advertising the vacancy.
 - (c) Managing response.
 - (d) Preliminary interview.

- (e) Written tests. (**Note** : Some Organizations take Written Test before Preliminary interview for screening the candidates.)
 - (f) Final interview.
 - (g) Medical examination.
 - (h) Appointment.
7. **Personnel – Training & Development** : Training is the process of enhancing the skills, capabilities and knowledge of employees for doing a particular job.
8. **Benefits of training** : Job security and job satisfaction to employees, Improved morale of employees, Lesser employee absenteeism and turnover, Reduced supervision, Less wastage of time and efforts, Fewer accidents, Better chances of promotion, Increased productivity, Reduced fatigue and tardiness, Better cooperation and good relations between workers and management and Reduced cost of product.
9. **Induction** : Induction is concerned with introducing a new employee to the company, job and staff in a systematic way.
10. **Types of training –**
- (a) **Training methods for operatives/workers** : Training by experienced worker, On the job training, Training by supervisor, Apprenticeship Training and Vestibule Training.
 - (b) **Training Methods for supervisors** : Lecture (class-room) Method, Written Material, Conference Method and Training within Industry (TWI)
 - (c) **Training methods for managers** : Managers are trained in two ways –
 - **On the job training** : On the job experience and coaching, Position Rotation, Committee Assignment and Assignment of special Projects
 - **Off the job training** : Conference and Seminars, Case Study, Role Playing, Reversed role play and Sensitivity or T group Training.
11. **The various types of leaderships** : Autocratic or Authoritarian Leadership, Democratic or Participative Leadership, Laissez-Faire Leadership, Bureaucratic Leadership and Charismatic Leadership
12. **Qualities of good leadership** : Energy, Vision, Integrity, Emotional stability, Knowledge of human relations, Communication skill, Personal motivation, Adaptability, Teaching ability, Decision-making, Technical competence, Objectivity, Courage, and Confidence.
13. **Motivation** : "Motivation is the driving force by which humans achieve their goals". Two types of motivations are intrinsic motivation and extrinsic motivation.

14. Maslow's basic needs :

- (a) Physiological Needs
- (b) Safety Needs
- (c) Social Needs
- (d) Esteem Needs
- (e) Self-Actualization Needs

15. Accident : Accident is an unforeseen incident that is not scheduled or planned and causes injury to employees or damage to property.

16. Causes of Accidents :

- (a) **Technical causes :** These are related to the machines/devices which the employees use- Viz. Defective agencies or devices (machines, prime movers, boilers, electrical apparatus etc.), Piling of material, over-loading of devices etc, Improper machine guarding, Improper material handling, Protruding parts, Chemicals leaking through valves, Unsafe apparel or dress etc.
- (b) **Environmental causes :** These are related to the working conditions in which the employees have to work-viz. Too low or too high temperature, Improper illumination, Very high humidity, Improper ventilation, Bad lay out, Noise, bad odour and flash coming from the nearby machine or process, Poor housekeeping etc.
- (c) **Personal causes :** These are related to the employees themselves-viz. Operating without authority, Immature age of workers, Operating at unsafe speeds, Lack of knowledge and skill, Unsafe loading, placing or mixing, Improper attitude towards work, Taking unsafe positions or postures while working, Non use of safety devices, Bodily defects, Day-dreaming and inattentiveness, Improper use of tools, Fatigue due to inadequate rest, pauses or breaks between the working hours etc.

17. Preventive Measures to avoid accidents : Provide safety guards, Maintain machines regularly, Prevent Fire, Train workers, Ensure good order and good house keeping, Ensure that workers use proper clothes while at work, Provide personal protective devices like-masks, goggles, gloves, safety shoes, helmets, ear plugs etc. where ever needed, Put notices/signs like- Danger, No smoking, Men at work, High voltage etc. at appropriate places, Arrangement should be made for adequate lighting, While working at the heights the worker must wear a certified harness that is tied off to a secure anchor point.

18. Objectives of the Factories Act :

- o To have uniform standing orders in respect to workers, factories, and working relationship.

- o To ensure that the terms and conditions of the employment are known to the employee and thus to minimize exploitation of the workers.
- o To promote industrial peace and harmony by promoting fair industrial practices

19. Various provisions of the Factories Act :

- (a) **Health provisions** are related to - Cleanliness, Disposal of wastes and effluents, Ventilation and temperature, Dust and fume, Artificial humidification, Overcrowding, Lighting, Drinking water, Latrines and urinals and Spittoons.
- (b) **Safety provisions** are related to - Fencing of machinery, Work on or near machinery in motion, Employment of young persons on dangerous machines, Cutting off power, Casing of new machinery, Prohibition of employment of women and children near cotton-openers, Hoists and lifts, Lifting machines, chains, ropes and lifting tackles, Floors, stairs and means of access, Pits, sumps, openings in floors, Excessive weights, Protection of eyes, Precautions against dangerous fumes, gases, etc Explosive or inflammable dust, gas, and Precautions in case of fire.
- (c) **Welfare provision** are related to - Washing facilities, Facilities for sitting, First-aid appliances, Canteens, Shelters, rest rooms and lunch rooms, Crèches, Annual leave with wages, Welfare officers, Working Hours, Weekly holidays, Compensatory holidays, Daily hours, Intervals for rest and Extra wages for overtime.
- (d) **Employment of women and child** : These provisions are related to - Working time for women, Prohibition of employment of young children and Working hours for children.

20. **ESI Act** : ESI Act provides certain benefits to employees in case of sickness, maternity and employment injury. The insured persons are entitled to : Sickness Benefit, Maternity benefit, Disablement benefit, Dependents benefit, Medical benefit and Funeral expenses.

21. **The Workmen's Compensation Act** : The Act provides for the payment by certain classes of employers to their workmen of compensation for injury by accident.

22. **The Industrial Disputes Act** : The main objective of the act is to make provision for the investigation and settlement of industrial disputes by negotiations, conciliation etc. instead of by a trial of strength through strikes and lockouts.

The objectives are achieved by :

- (a) Providing a suitable machinery for the settlement of industrial disputes

- (b) Promoting measures for securing and preserving good relations between employers and employees.
- (c) Preventing illegal strikes and lockouts.
- (d) Providing relief to workers against layoffs, retrenchment, wrongful dismissal and victimization.
- (e) Promoting collective bargaining.
- (f) Improving the conditions of workers.
- (g) Avoiding unfair labour practices.

23. Causes of industrial disputes :

- a) Demand for higher wages and allowances.
- b) Demand for payment of bonus and the rate of bonus.
- c) Demand for higher social security benefits.
- d) Demand for good and safer working conditions, including length of a working day, the interval and frequency of leisure and physical work environment.
- e) Demand for improved labour welfare and other benefits. For example, adequate canteen, rest, recreation and accommodation facility, arrangements for travel to and from distant places etc.
- f) Psychological factors such as denial of opportunity to the worker for satisfying his/her basic urge for self-expression, personal achievement and betterment.

Practice Questions