

## **DUTIES OF FACORY INSPECTORS – continued**

### **Medical benefits**

- From day one of entering insurable employment for self and dependants such as spouse, parents and children own or adopted.
- For self and spouse on superannuation subject to having completed five years in insurable employment on superannuation or in case of having suffered permanent physical disablement during the course of insurable employment.

### **Sickness benefits**

- Sickness benefit is payable to an insured person in cash, in the event of sickness resulting in absence from work and duly certified by an authorised insurable medical officer/ practitioner. The benefit becomes admissible only after an insured has paid contribution for at least 78 days in a contribution period of 6 months.
- Sickness benefit is payable for a maximum of 91 days in two consecutive contribution period.

### **Extended sickness benefit**

- Extended sickness benefit is payable to insured persons for the period of certified sickness in case of specified 34 long-term diseases that need prolonged treatment and absence from work on
- medical advice.
- For entitlement to this benefit an insured person should have been in insurable
- employment for at least 2 years. He/ she should also have paid contribution for a minimum of 156 days in the preceding 4 contribution periods or say 2 years.
- ESI is payable for a maximum period of 2 years on the basis of proper medical certification and authentication by the designated authority.

- Amount payable in cash as extended sickness benefit is payable within 7 days following the submission of complete claim papers at the local office concerned.
- Enhanced sickness benefit
- This cash benefit is payable to insured persons in the productive age group for under going sterilization operation, viz., vasectomy/ tubectomy.
  - The contribution is the same as for the normal sickness benefit. o Enhanced sickness benefit is payable for 14 days for tubectomy and for seven days in case of vasectomy.

### **Maternity benefit**

- Maternity benefit is payable to insured women in case of confinement or miscarriage or sickness related thereto. o For claiming this an insured woman should have paid for at least 70 days in 2 consecutive contribution periods i.e. 1 year.
- The benefit is normally payable for 12 weeks, which can be further extended up to 16 weeks on medical grounds.
- The rate of payment of the benefit is equal to wage or double the standard sickness benefit rate.
- The benefit is payable within 14 days of duly authenticated claim papers.

### **Disablement benefit**

- Disablement benefit is payable to insured employees suffering from physical disablement due to employment injury or occupation disease.

### **Dependants benefit**

- Dependants benefit [family pension] is payable to dependants of a deceased insured person where death occurs due to employment or occupational disease.
- A widow can receive this benefit on a monthly basis for life or till remarriage. A son or daughter can receive this benefit till 18 years of age.

- Other dependants like parents including a widowed mother can also receive the benefit under certain condition.
- The rate of payment is about 70% of the wages shareable among dependants in a fixed ratio.
- The first installment is payable within a maximum of 3 months following the death of an insured person and thereafter, on a regular monthly basis.

Other benefits like funeral expenses, vocational rehabilitation, free supply of physical aids and appliances, preventive health care and medical bonus.

#### Records To Be Maintained For Inspection By ESI authorities

1. Attendance Register / Muster Roll
2. Salary / Wage Register / Payroll
3. EC (Employee's & Employer's Contribution) Statement
4. Employees' Register
5. Accident Book
6. Return of Contribution
7. Return of Declaration Forms
8. Receipted Copies of Challans
9. Books of Account viz. Cash/Bank, Expense Register, Sales/Purchase Register, Petty Cash Book, Ledger, Supporting Bills and Vouchers, Delivery Challans
10. Form of annual information on company

### **Employees Insurance Court**

Any dispute arising under the ESI Act will be decided by the Employees Insurance

Court and not by a Civil Court. It is constituted by the State Government for such local areas as may be specified and consists of such number of judges, as the Government may think fit. It shall adjudicate on the following disputes and claims.

Disputes as to:

Whether an employee is covered by the Act or whether he is liable to pay the contribution, or

ii. The rate of wages or average daily wages of an employee, or

iii. The rate of contribution payable by the employer in respect of any employee, or

iv. The person who is or was the principle employer in respect of any employee, or

v. The right to any benefit and the amount and duration thereof, or

vi. Any direction issued by the Corporation on a review of any payment of dependents benefit, or

vii. Any other matter in respect of any contribution or benefit or other due payable or recoverable under the Act.

## **WORKMEN COMPENSATION ACT**

The Workmen's Compensation Act, aims to provide workmen and/or their dependents some relief in case of accidents arising out of and in the course of employment and causing either death or disablement of workmen. It provides for payment by certain classes of employers to their workmen compensation for injury by accident.

### **Employees Entitled To Compensation:**

Every employee (including those employed through a contractor but excluding casual employees), who is engaged for the purposes of employers business and who suffers an injury in any accident arising out of and in the course of his employment, shall be entitled for compensation under the Act.

**Employers Liability for Compensation (Accidents)**

The employer of any establishment covered under this Act, is required to compensate an employee:

- a. Who has suffered an accident arising out of and in the course of his employment, resulting into
  - (i) death,
  - (ii) permanent total disablement,
  - (iii) permanent partial disablement, or
  - (iv) temporary disablement whether total or partial, or
- b. Who has contracted an occupational disease.

**Employer Shall Not Be Liable:**

- a. In respect of any injury which does not result in the total or partial disablement of the workmen for a period exceeding three days;
- b. In respect of any injury not resulting in death, caused by an accident which is directly attributable to
  - i. the workmen having been at the time thereof under the influence or drugs, or
  - ii. the wilful 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 wilful removal or disregard by the workmen of any safeguard or other device which he knew to have been provided for the purpose of securing the safety

of workmen. The burden of proving intentional disobedience on the part of the employee shall lie upon the employer.

iv. when the employee has contracted a disease which is not directly attributable to a specific injury caused by the accident or to the occupation; or

v. when the employee has filed a suit for damages against the employer or any other person, in a Civil Court.

### **Definition of Disablement**

Disablement is the loss of the earning capacity resulting from injury caused to a workman by an accident.

Disablements can be classified as

(a) Total, and

(b) Partial.

It can further be classified into

(i) Permanent, and

(ii) Temporary, Disablement, whether permanent or temporary is said to be total when it incapacitates a worker for all work he was capable of doing at the time of the accident resulting in such disablement.

Total disablement is considered to be permanent if a workman, as a result of an accident, suffers from the injury specified in Part I of Schedule I or suffers from such combination of injuries specified in Part II of Schedule I as would be the loss of earning capacity when totaled to one hundred per cent or more.

Disablement is said to be permanent partial when it reduces for all times, the earning capacity of a workman in every employment, which he was capable of undertaking at the time of the accident. Every injury specified in Part II of Schedule I is deemed to result in permanent partial disablement.

Temporary disablement reduces the earning capacity of a workman in the

employment in which he was engaged at the time of the accident.

### **General principles of the Act**

There must be a casual connection between the injury and the accident and the work done in the course of employment;

The onus is upon the applicant to show that it was the work and the resulting strain which contributed to or aggravated the injury;

It is not necessary that the workman must be actually working at the time of his death or that death must occur while he was working or had just ceased to work; and

Where the evidence is balanced, if the evidence shows a greater probability which satisfies a reasonable man that the work contributed to the causing of the personal injury it would be enough for the workman to succeed. But where the accident involved a risk common to all humanity and did not involve any peculiar or exceptional danger resulting from the nature of the employment or where the accident was the result of an added peril to which the workman by his own conduct exposed himself, which peril was not involved in the normal performance of the duties of his employment, then the employer will not be liable.