



RAMA UNIVERSITY

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FACULTY OF COMMERCE & MANAGEMENT

COURSE: MBA 3rd SEMESTER

SUBJECT: LABOUR LEGISLATIONS

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LECTURE: 25

NAME OF FACULTY: DR. H. L. BHASKAR

Lecture-25



Social Security Legislations: Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; The Workmen's Compensation Act, 1923; The Employee State Insurance Act, 1948; Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961

The Employee State Insurance Act, 1948

The Employees' State Insurance Act, 1948 provides an integrated need based social insurance scheme that would protect the interest of workers in contingencies such as sickness, maternity, temporary or permanent physical disablement, and death due to employment injury resulting in loss of wages or earning capacity. The Act also guarantees reasonably good medical care to workers and their immediate dependents.

The Employees' State Insurance Act, 1948 provides for certain benefits to employees in case of sickness, maternity and employment injury and also makes provisions for certain other matters in relation thereto. The Act has been amended by the Employees' State Insurance (Amendment) Act, 2010 for enhancing the Social Security Coverage, streamlining the procedure for assessment of dues and for providing better services to the beneficiaries. The Act extends to the whole of India. The Central Government is empowered to enforce the provisions of the Act by notification in the Official Gazette, to enforce different provisions of the Act on different dates and for different States or for different parts thereof [Section 1(3)]. The Act applies in the first instance to all factories (including factories belonging to the Government) other than seasonal factories [Section 1(4)]. According to the proviso to Section 1(4) of the Act, nothing contained in sub-section (4) of Section 1 shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in

receipt of benefits substantially similar or superior to the benefits provided under the Act. Section 1(5) of the Act empowers the appropriate Government to extend any of the provisions of the Act to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise after giving one month's notice in the Official Gazettee. However, this can be done by the appropriate Government, only in consultation with the Employees' State Insurance Corporation set up under the Act and, where the appropriate Government is a State Government, it can extend the provisions of the Act with the approval of the Central Government. Under these enacting provisions, the Act has been extended by many State Governments to shops, hotels, restaurants, cinemas, including preview theatres, newspaper establishments, road transport undertakings, etc., employing 20 or more persons. It is not sufficient that 20 persons are employed in the shop. They should be employee as per Section 2(9) of the Act, getting the wages prescribed therein (ESIC v. M.M. Suri & Associates Pvt. Ltd., 1999 LAB IC SC 956). According to the proviso to sub-section (5) of Section 1 where the provisions of the Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishment within that part, if the provisions have already been extended to similar establishment or class of establishments in another part of that State. It may be noted that a factory or an establishment to which the Act applies shall continue to be governed by this Act even if the number of persons employed therein at any time falls below the limit specified by or under the Act or the manufacturing process therein ceases to be carried on with the aid of power. [Section 1(6)]

IMPORTANT DEFINITIONS

1. **Appropriate Government:** "Appropriate Government" means in respect of establishments under the control of the Central Government or a railway administration or a major port or a mine or oil-field; the Central Government,

and in all other cases, the State Government. [Section 2(1)]

2. **Confinement:** “Confinement” means labour resulting in the issue of a living child or labour after 26 weeks of pregnancy resulting in the issue of child whether alive or dead. [Section 2(3)]
3. **Contribution:** “Contribution” means the sum of money payable to the Corporation by the principal employer in respect of an employees and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act. [Section 2(4)]
4. **Dependent:** “Dependent” under Section 2(6A) of the Act (as amended by the Employees’ State Insurance (Amendment) Act, 2010) means any of the following relatives of a deceased insured person namely: (i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years,, an unmarried legitimate or adopted daughter, (ia) a widowed mother, (ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of 25 years and is infirm; (iii) if wholly or in part dependent on the earnings of the insured person at the time his death: (a) a parent other than a widowed mother, (b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and minor or if widowed and a minor, (c) a minor brother or an unmarried sister or a widowed sister if a minor, (d) a widowed daughter-in-law, (e) a minor child of a pre-deceased son, (f) a minor child of a pre-deceased daughter where no parent of the child is alive or, (g) a paternal grand parent if no parent of the insured person is alive.
5. **Employment Injury:** It means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of

India. [Section 2(8)]

It is well settled that an employment injury need not necessarily be confined to any injury sustained by a person within the premises or the concern where a person works. Whether in a particular case the theory of notional extension of employment would take in the time and place of accident so as to bring it within an employment injury, will have to depend on the assessment of several factors. There should be a nexus between the circumstances of the accident and the employment. On facts no case could be an authority for another case, since there would necessarily be some differences between the two cases. Therefore, each case has to be decided on its own facts. It is sufficient if it is proved, that the injury to the employee was caused by an accident arising out of and in the course of employment no matter when and where it occurred. There is not even a geographical limitation. The word injury does not mean only visible injury in the form of some wound. Such a narrow interpretation would be inconsistent with the purposes of the Act which provides certain benefits in case of sickness, maternity and employment injury (*Shyam Devi v. E.S.I.C.*, AIR 1964 All. 42).