

* Ch. 19. Social Security legislations *

Unit - I : Employees state Insurance Act, 1948

The Employees State Insurance Act, 1948 provides benefits to employees in sickness, maternity and employment injury.

It is applicable to all establishments where 10 or more than 10 workers are employed.

* Employees state Insurance.

Section 38 :- It is mandatory that all employees in factories or establishments to which this act applies shall be insured in the manner provided by this act.

- Insured persons and employees should pay contributions in Insurance fund.

- Such insured persons will get some benefits from Insurance fund and any dispute will be settled by Employees Insurance court.

* Administration of employees state insurance scheme.

To manage scheme of employees state insurance Employees State Insurance Corporation Standing Committee and Medical Benefit Council has constituted under this act.

* Employees State Insurance Corporation

Section 3 - It states that Employee state Insurance Corporation shall be established by Central government for administration of the Employees state Insurance scheme.

- These corporation shall be body corporate, and have perpetual succession and common seal, and can sue or can be sued.

* Constitution :-

The central government shall appoint a chairperson, a vice - chairperson and others members to represent employees and members of state government or union territories and medical professionals. Three members of parliament, Director General and its ex-officio members.

* Powers and Duties :-

Section 19 :- It authorises corporation to promote measures to improvement of the health and welfare of insured persons.

Section 29 :- It empowers corporation to purchase or sale or hold & acquire property.

↳ Employee stock Insurance Corporation can invest or reinvest money.

iii) Corporation can take loans and can discharge loans with sanction of central government.

iv) It can constitute for the benefit of its staff or any class of them, provident or other benefit fund which may fit.

* Appointment of regional boards

The central government should appoint Regional boards, Local committees and Regional or Local Medical benefit councils in such areas and can give them powers and functions as may be prescribed.

* Contributions :-

The contributions shall be paid at a those rates which are specified by Central Government.

The employee should pay 0.75% of contribution and the employer shall pay 3.25% of contribution.

The contributions which are to be payable with respect to wage period shall be due on last day of the wage period.

* Principal employer to pay contribution in first instance

The employer should pay contribution of every employee on behalf of them and then cut that amount of contribution from their salary.

Section 40 :- According to section 40, it is incumbent upon the principal employer to pay in respect of every employee whether directly employed by him or by through an immediate employer, both the employers contributions and the employees contribution.

Section 39(5) :- According to this section, if any contribution payable is not paid by the principal employer on date on which such contribution has become due, he shall be liable to pay simple interest of rate of 12% p.a. or higher rate as may be specified in regulations, till date of actual payment.

* Recovery of contribution from immediate employer.

Section 41 :- principal employer who has paid contribution in respect of employee or through an immediate employer is entitled to recover amount of contribution from immediate

employer either by deducting amount payable to him by principal employer under any contract or as debt payable by the immediate employer.

* Method of payment of contribution :-

Section 43 :- This section provides corporation to make regulations for payment and collection of contribution payable under this act & such regulations may provide for. -

- 1) Manner and time for payment of contributions.

2) The payment of contributions means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions and under which such stamps are to be affixed or impressed.

3) The date by which evidence of contributions having been paid is to be received by Corporation.

4) The entry or cards or particulars of contribution paid & benefit distributed in case of insured persons to whom such books or card relates.

5) The issue, sale, custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

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* Benefits :- (Section 46)

The insured persons are entitled to get -

Periodical payments in case of sickness certified by medical practitioner.

Periodical payments to insured person in case of confinement or miscarriage or sickness due to pregnancy.

Periodical payments to insured person in case person is suffering from disablement as a result of employment injury.

Periodical payment to dependants of insured person.

Medical treatment and attendance on insured person.

Payment of funeral expenses on death of insured person at the prescribed rate.

* General provisions relating to benefits

- Right to receive benefits is not transferable or assignable.
- When a person benefits under this act, he is not entitled to receive benefits under any other enactment.
- An insured person is not entitled to receive for the same period more than one benefit. It means benefit of sickness cannot be combined with benefit of maternity or disablement, etc.

* Employees Insurance Court

Constitution :-

- Section 74 of Act provides that State government shall constitute 'Employees Insurance Court' by notification in official gazette for such local area as may be prescribed in notification.
- As the State government may think fit the court shall consist of such number of judges.
- A person who is or has been judicial officer or is a legal practitioner of 5 years standing shall be qualified to be judge of Employees Insurance Court.

- The State government may appoint the same court for two or more local areas or more courts for the same local area and may regulate the distribution of business between them.

* Matters to be decided by (E.I court) Employee Insurance Court.

1) Adjudication of disputes :-

The Employees Insurance Court has jurisdiction to adjudicate disputes, namely, whether any person is an employee under the act, rate of wages/contribution, as to who is or was the principal employer, right of a person to any benefit under the act.

2) Adjudication of claims :-

The Employees Insurance court also has jurisdiction to decide claims for recovery of contribution from principal employer or immediate employer, action for failure or negligence to pay contribution, claim for recovery of any benefit admissible under the Act.

* Creation of fund :-

Section 26 - It states that all contributions under this Act and all other money received on behalf of the Corporation shall be paid into a fund called "Employees State Insurance fund"

- Employees state Insurance fund shall be held and administered by the Corporation for the purposes of this Act.

- The Corporation may accept grants, gifts, donations from the Central or State Government, local authority, or any individual or body whether incorporated or not, for all, or any of the purpose of this Act.

* Medical benefit council

Section 10 :- It empowers the Central Government to constitute a Medical Benefit Council.

Section 22 :- It determines the duties of the Medical Benefit Council stating that the Council shall -

- advise the corporation and the Standing Committee on matters relating to administration of medical benefit, the certification for purpose of the grant of benefit and other connected matters.

- have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance.