

A Breif Study on Employees' State Insurance Act, 1948

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ABSTRACT:

An important piece of social security law in India is the Employees' State Insurance (ESI) Act, 1948, which offers health insurance and other benefits to workers in the organised sector. In the event of illness, pregnancy, incapacity, or death, the Act intends to provide workers and their families with financial security and access to medical treatment. The ESI Act's main goal is to provide workers' dependents access to social security and health insurance. It attempts to safeguard people from the financial challenges brought on by unexpected medical expenses and provide access to high-quality medical treatment. The Act is applicable to factories and businesses with 10 or more staff members. It applies to both permanent and contract workers earning up to a certain amount per hour. The Employees' State Insurance Act of 1948 is essential in ensuring that organised sector workers and their families have access to social security and health insurance. It offers a comprehensive system of medical treatment and health insurance that addresses a variety of scenarios, including illness, pregnancy, incapacity, and death. For employers to accomplish their duties and for workers to receive their legal rights, compliance with the Act is necessary.

KEYWORDS:

Applicability, Corporation, Coverage, Disablement, Maternity.

I. INTRODUCTION

The act pertaining to maternity benefits was the subject of the preceding unit. In the year 1948, the Indian Parliament passed the Employees' State Insurance Act. To offer specific benefits to the workers in the organised sector in case of illness, maternity, and job accident, it was the first significant Social Security Act in independent India. In order for the students to understand the practical relevance of this area of law, it is crucial that they become well-versed in it. The Employees State Insurance Act of 1948 was passed with the intention of promoting employee welfare and providing benefits in the event of illness, pregnancy, work-related accident, and other similar circumstances. The Indian Constitution's Articles 41, 42, and 43 require the state to put in place effective measures to guarantee the right to work, to an education, and to receive public assistance in the event of unemployment, old age, illness, or disability.

The Directive principles of state policy under Part 4 of the Constitution, which are incorporated in the Act, strive to realise the objective of socio-economic fairness. The benefits provided under this Act are applicable to all employees, regardless of whether they are employed directly by the principal employee, through an intermediary agency, or outside the factory or establishment if their employment is incidental or related to the factory or establishment. The Act is applicable to enterprises that do not use electricity and employ 10 or more people, as well as establishments that do not employ twenty or more people. This unit's goal is to help the pupils understand fundamental phrases. You need to be able to comprehend several ESIC ideas at the conclusion of this course [1]–[3].

II. DISCUSSION

The Employees' State Insurance Act has a number of provisions that provide insurance and medical benefits for any workers employed by factories that are members of the ESI Corporation. From a legal and employee viewpoint, the start of an official social security programme in India is an attractive possibility. An important piece of social

security law in India is the Employees' State Insurance Act, 1948, which offers medical, financial, and other benefits to employees in the event of illness, pregnancy, work-related accident, or death. By giving workers full healthcare and social security coverage, the Act seeks to safeguard their interests. Employees in India have access to a thorough social security system because to the Employees' State Insurance Act of 1948. In the event of illness, pregnancy, workplace injuries, or death, it guarantees access to medical treatment as well as cash compensation. Both employers and workers must abide by the Act in order to satisfy their duties and receive the advantages offered by the programme.

Scope and Objective of the Act

A ground-breaking policy in our nation's social insurance system is the Employees' State Insurance Act of 1948. When the Government of India first evaluated the application of the Conventions approved by the International Labour Conference, in 1927, the question of health insurance for industrial employees was first brought up in the Indian Legislature. The Royal Commission on Labour emphasised the need of health insurance for Indian workers in its report (1931). One of the first choices made by the Labour Ministers' Conferences in the years between 1940 and 1942 was to enlist a specialist to develop a plan for worker health insurance. As a result, Prof. B.P. Adarkar was given the task of creating a comprehensive plan for health insurance for industrial employees in March 1943. He sent in his report in December 1944. The Indian government, state governments, and other interested parties all gave this some thought. The Workmen's State Insurance Bill of 1946, which was subsequently presented to a Select Committee on November 12, 1947, was the vehicle through which the Adarkar Plan and numerous other recommendations were ultimately realised: The Workmen's State Insurance Bill was renamed Employees' State Insurance Bill when the Select Committee expanded coverage to include all factory workers [4]–[7].

A piece of social welfare law known as the Employee State Insurance Act, or ESIC, was passed in 1948 with the primary goal of providing workers with specific benefits in the event of illness, pregnancy, or work-related accident. In fact, the Act seeks to realise the objective of socioeconomic justice enshrined in the Directive principles of state policy under Part 4 of our Constitution, particularly Articles 41, 42, and 43, which compel the state to make effective provisions for securing the right to work, the right to education, and the right to public assistance in cases of unemployment, old age, sickness, and disability. The legislation only partially tries to make these promised things a reality. The scope of this Act expands beyond the factory Act. In that only the employees working on the factory grounds are addressed by the Factory Act, which is concerned with the health, safety, welfare, and other rights of all employees. However, if an employee is employed incidentally or in connection with the factory or establishment, regardless of whether they work within the factory or establishment, elsewhere, or via an intermediary agency, they are covered by this Act's benefits.

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Application and scope of the Act

The Employees' State Insurance Act of 1948 (ESI) permits the working class to get financial assistance and support at times of medical need, such as:

1. Sickness.
2. Maternity Leave.
3. Disorders (mental or physical).
4. Disability.
5. Death.

In an effort to shield the working class from any financial hardships brought on by the aforementioned medical difficulties, a self-financed project has been launched that acts as a kind of social insurance programme.

Employee

According to Section 2(9) of the Act, a "employee" is any individual paid wages to perform duties at a factory or other institution to which this Act applies. It has a broad meaning and encompasses administrative, manual, technical, and managerial tasks. The Act covers individuals whose monthly compensation (excluding of compensation for overtime labour) does not exceed \$6,500. The Act does not distinguish between technical and non-technical personnel or between casual and temporary workers.

Additionally, there is no differentiation between workers paid on a piece-rate or time-rate basis. Notes-Employees who are employed directly by the principle employer, by or via a contractor on factory property, and who are employed outside the factory property under the principal employer's supervision are all covered by the Act: Additionally, it includes those who work in administrative roles as well as those that buy raw materials, distribute goods, sell them, or do other similar or related tasks. A member of the Indian military, navy, or air force is not included in the term of "employee" nevertheless.

Wages

"Wages" refers to any compensation received in cash if the contract's conditions are met, and includes any payments made during allowed leaves of absence, lawful strikes, lockouts, or layoffs, as well as other compensation provided at intervals not exceeding two months. However, it excludes the following:

- a. A contribution made to a pension or provident fund;
- b. Amount of a travel reimbursement or travel concession;
- c. Amount paid to cover extra costs; and
- d. Gratuity due upon release.

Constitutionality of the Act

Because it provides insurance and medical insurance, the ESI Act acts as a constitutional tool. The Central Government is in charge of the majority of the procedures, even though the ESI Act is mostly carried out by the ESI Corporation.

Because insurance, whether it be public or private, is mentioned in the Seventh Schedule of the Indian Constitution as a Union List topic, it may only be regulated by the Central Government, which greatly adds to the legitimacy of the Act.

Establishment of Employees' State Insurance Corporation

The Employees' State Insurance Corporation, formed by Section 3 and charged with upholding social security, serves as the vehicle through which the ESI Act performs its duties. It was founded on February 24th, 1952. In the event of a medical emergency, the company is required to assist the workers.

Constitution of Corporation

The composition of the ESIC is defined in Section 4, and it is as follows:

- a. The Director-General.
- b. Chairman, appointed by the Central Government.
- c. Vice-Chairman appointed by the Central Government.
- d. Not more than 5 persons nominated by the Central Government.
- e. 1 person to represent each state.
- f. 1 person representing the Union Territories.
- g. 10 persons representing employers.
- h. 10 persons representing employees.
- i. 2 persons representing the medical profession.
- j. 3 members of parliament (2: Lok Sabha and 1: Rajya Sabha).

Term of office of members of the Corporation

The term of office for members of the Corporation is outlined in Section 5 of the Employees' State Insurance Act, 1948. The governing body in charge of overseeing the Employees' State Insurance (ESI) Scheme is the Corporation alluded to in the Act. The following are the main specifics surrounding the members of the Corporation's tenure of office:

Composition of the Corporation: The Corporation is made up of members from several stakeholder groups, including those from the Central Government, the State Government, and the Employer Sector.

Tenure: Per Section 5(2) of the Employees' State Insurance Act of 1948, the members of the Corporation have a five-year term of office.

Reappointment: A member of the Corporation may be appointed for a second five-year term, subject to the terms of the Act and any implementing laws or rules.

Vacancies and Seat Filling: The Central Government or State Government, as appropriate, is responsible for filling the vacant seat within a reasonable amount of time in the event that a vacancy arises due to the expiration of the term of office, resignation, death, or any other reason.

Removal: If a member is shown to be incompetent, dishonest, or incapable of carrying out their responsibilities, the Act also contains measures for their removal from the Corporation. The Act describes the removal procedure.

It is significant to note that the rules and regulations established by the Employees' State Insurance Act of 1948 may include further information on specifics pertaining to the appointment, duties, authority, and makeup of the Corporation, including the period of office. These rules and regulations provide more detailed instructions and processes for how the Corporation should run and the circumstances under which its members must operate. It is important to consult the official announcements, rules, and regulations released by the relevant authorities under the Employees' State Insurance Act, 1948, in order to receive the most precise and up-to-date information on the term of office for members of the Corporation.

Eligibility for re-appointment or re-election

An Indian social security law known as the workers' State Insurance (ESI) Act, passed in 1948, offers medical, financial, and other benefits to workers and their family. It's crucial to remember that the ESI Act does not specifically address the eligibility requirements for re-appointment or re-election of workers and instead largely focuses on giving social security payments. I can provide the following broad information, though:

Re-appointment: Employer rules, employment agreements, and relevant labour regulations often govern the re-appointment of workers. Reappointment rules are not clearly mentioned in the ESI Act. The choice of whether to reappoint an employee is at the employer's discretion and depends on a variety of elements, including performance, skills, job needs, and organisational regulations.

Re-election: The idea of running for office again often refers to elected posts in institutions like unions or employee reps. Re-election standards are not particularly covered under the ESI Act. The rules and regulations of the particular organisation or group holding the elections would govern re-election eligibility and procedures. While the ESI Act does not specifically address reappointment or re-election, it does include provisions for employee rights and benefits connected to social security, health care, and other welfare programmes. The Act specifies the duties of employers and workers in connection to ESI payments and benefits and creates the workers' State Insurance Corporation (ESIC) to manage and carry out the programme. It is advised to consult the relevant employment laws, organisational policies, and any applicable trade union statutes or election procedures that apply in your particular setting for further information on re-appointment or re-election.

Constitution of Standing Committee

An Indian social security law known as the workers' State Insurance (ESI) Act, passed in 1948, offers medical, financial, and other benefits to workers and their family. The Employees' State Insurance Corporation (ESIC) is created under the Act to oversee and carry out its obligations. The Act also enables the creation of a number of committees to support the ESIC's operations. The Employees' State Insurance Act of 1948 stipulates that the Standing Committee should be constituted as follows:

Standing Committee: The ESI Act of 1948 created the Standing institution, a significant institution. It aids in the design of policies and the decision-making process relating to the execution of the ESI Scheme as an advisory body to the ESIC.

Composition: Members of the Standing Committee generally represent a range of stakeholders, including employers, workers, health care providers, and public servants. Depending on the committee's regional or national level, the particular makeup may change.

Employer Representatives: The Standing Committee is made up of individuals chosen by associations or employer organisations. These delegates provide their opinions on numerous ESI Scheme-related topics and reflect the interests and concerns of employers.

Employee Representatives: Members of the Standing Committee who have been nominated by employee associations or labour unions are also present. These representatives participate in conversations and decision-making processes by sharing the opinions and concerns of the workforce.

Medical professionals: The Standing Committee may include medical professionals with knowledge and experience in the healthcare industry, such as physicians or healthcare specialists. Their responsibility is to provide opinions on medically relevant concerns and guidance on topics involving healthcare services covered by the ESI Scheme.

Government members: The Standing Committee may include government members, such as those from the Ministry of Labour and Employment or other pertinent ministries. These representatives serve as the ESIC's guides, allies, and coordinators with the government.

Functions: The Standing Committee is in charge of evaluating the ESI Scheme's development, effectiveness, and application. It looks at many facets of the ESI Scheme, including healthcare services, benefits, monetary concerns, and policy issues. The Committee considers these issues and offers advice to the ESIC.

Meetings and Decision-Making: To consider pertinent topics and formulate recommendations, the Standing Committee meets as needed or at regular intervals. The ESIC may take the Standing Committee's conclusions or suggestions into consideration for further action, changes in policy, or enhancements to the way the ESI Scheme operates.

The Employees' State Insurance Act of 1948's Standing Committee's structure guarantees that many stakeholders are represented and makes it easier for them to participate in decision-making. The committee is essential to the

successful implementation of the ESI Scheme because it offers direction, evaluates progress, and makes suggestions.

Please be aware that the specifics of the Standing Committee's makeup, duties, and meetings may be subject to laws and regulations established under the Employees' State Insurance Act of 1948. For comprehensive and current information, it is recommended to consult the Act and its related regulations or obtain professional assistance [8]–[10].

III. CONCLUSION

The Employees' State Insurance (ESI) Act, passed in 1948, is an important piece of social security law in India that offers workers in select designated businesses and sectors a comprehensive plan for medical benefits and health insurance. The Act provides the rights, responsibilities, and benefits for covered workers as well as creates the workers' State Insurance Corporation (ESIC). Here is a summary of the Employees' State Insurance Act of 1948's main points: Workers who work in factories, enterprises, and certain sectors that have a minimum number of workers are covered by the Act. Both manual and non-manual workers earning less than a certain salary level are included. The Act's main goal is to provide eligible workers and their families access to health insurance. It creates the ESI Scheme, under which employers and workers pay into the ESI fund. The fund is used to pay for employee and family medical benefits. Women workers covered by the programme are also entitled to maternity benefits under the ESI Act. During the time of pregnancy, it offers paid leave, medical benefits, and financial advantages. A comprehensive social security programme is established by the Employees' State Insurance Act of 1948 to provide medical benefits and health insurance protection to eligible employees and their family. For personnel working in certain sectors, it guarantees financial security and access to high-quality healthcare treatments. For employers to accomplish their duties and for workers to receive their legal rights, compliance with the Act is necessary.

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