

THE EMPLOYEES' COMPENSATION ACT-1923

[SER Estt SL NO. 96/2011]

DEFINITION: -

The Workmen's compensation Act is a labour legislation that was passed by the Houses of Parliament and enacted in 1923.

This act was introduced for enforcement w.e.f. 01.07.1924. The Workmen's Compensation- Act-1923' has been amended in the year 2009 and the term 'Workmen' is substituted by 'Employees'' and henceforth The Workmen's Compensation Act is called as Employees' Compensation Act.

OBJECT OF THE ACT:-

To provide social security, ensure social justice and not to punish any employee by ensuring payment of compensation to the Workmen (employees) in case of accidents or an occupational disease involving injuries to them or to their dependent family members in case of death.

WHEN COMPENSATION IS PAYABLE:

Compensation is payable only when the accident causing injury/death arose "out of' and 'in the course of employment'.

The phrase arising out of means that there must be casual connection between employment and the accidental injury. The employee's employment must be the distinctive and proximate cause of his personal injury.

The phrase 'in course of employment' emphasizes the time when the accidental injury was caused and means that he must receive the injury while he is actually working for his employer. But, it may not be restricted to work time only. Employment time covers that time which is subject to the employer's control.

CONDITIONS FOR PAYMENT OF COMPENSATION:-

In case of injury, it must be cause a disablement for a period of at least 03 (Three) days.

APPLICATION IN RAILWAYS:-

This act applies to all railway employees as defined in clause (34) of section 2 of the Railway Act-1989, not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in schedule II.

After introduction of 'The employee's compensation Act'-2009, Clerical category has been inserted.

FEATURE OF THE ACT:-

- Pay limitation has been removed.
- Now such a person shall be covered by this act irrespective of his pay limit.
- The amount of compensation will be related to 'Relevant Factor'.
- Amount spent on medical treatment shall not be deemed as a payment or allowance received by the employee.

WHEN COMPENSATION IS NOT PAYABLE:

Payment of compensation may be refused by the employer for:-

- Any injury caused when the employee was under influence of drinks and drugs.
- The accident occurs due to wilful disobedience of orders or disregard of rules made for the safety of the employee.
- Wilful removal or disregard of any safety guard or device.

However, these pleas are not applicable in case of death of an employee.

WAGE LIMIT FOR CALCULATION OF COMPENSATION:-

Where the monthly wages of an employee exceed Rs 8000/- per month, for the purpose of calculation of compensation shall be deemed to be Rs 8000/- only.(RBE-61/2011&S.E.Rly/GRC's Estt. Srl No. 96/2011).

The earlier amount Rs 4000/- as monthly wages enhanced to Rs 8000/- w.e.f. the date of Ministry of Labour & Employment's notification No. S-37012/1/2008-SS.1(Vol.II) dated 31.05.2010.

LIABILITY FOR PAYMENT OF COMPENSATION ARISE IN CASE OF :-

1. Death
2. Permanent Total Disablement
3. Permanent partial Disablement
4. Temporary disablement.

Temporary Disablement:- means the injury which keeps a workman remain away from work beyond a period of 03 days whether on total or partial disablement and reduces temporarily his earning capacity.

Permanent Partial Disablement:- Where the partial disablement is of a permanent nature such disablement as reduces his earning capacity in every employment in which he was capable of under taking at the time of accident as specified in Schedule-I of the WC Act shall be deemed to result in permanent partial disablement.

Permanent Total Disablement:- Permanent total disablement means such disablement which incapacitates a workmen for all works which he was performing before the injury and will be compensated in terms of Schedule-I .

The amount of compensation payable by the employer shall be calculated as follows:-

a)	In case of Death	50% of the Monthly Wages X Relevant factor (as specified in Schedule-IV) or Rs 1,20,000/- only whichever is more.
b)	In case of Permanent Total Disablement	60% of the Monthly Wages X Relevant factor or Rs 1,40,000/- only whichever is more.
c)	In case of Permanent Partial Disablement	As per (b) above in proportionate to the loss of earning capacity either specified in the schedule-I or as assessed by the doctors.
d)	In case of temporary disablement whether Partial or Total	A half monthly payment of the sum equivalent to 25% of the monthly wages, for the period of disablement or 05 years whichever is shorter

❖ Compensation is also payable for such disabilities/death caused due to occupational disease as given in Schedule-III of this Act.

❖ "relevant factor", in relation to a *[employee] means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the *[employee] on his last birthday immediately preceding the date on which the compensation fell due.

❖ The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day --

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or

(ii) after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days;

NOTE:- Monthly wages limit being Rs 8000/- for payment of compensation .

4A. Compensation to be paid when due and penalty for default-

(1) Compensation under section 4 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 *[employee], as the case may be, without prejudice to the right of the *[employee] to make any further claim.

(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 shall--

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent. per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent, of such amount by way of penalty.

Distribution of compensation- No payment of compensation in respect of a *[employee] whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation.

SCHEDULES OF W.C. ACT AND ITS CONTENTS

There are 04 schedules under the act which deal with as under:-

Schedule-I – Indicates the ‘ %’ of the loss of earning capacity.

Schedule-II– Indicates the category of workman entitled for the payment of compensation.

Schedule-III– Indicates the occupational diseases.

Schedule-IV –Indicates the amount of compensation payment payable.

SCHEDULE-I [Part-I]

List of injuries Deemed to result in permanent total Disablement

Srl.No	Description of Injury	%of loss of earning capacity
1	Loss of both hands or amputation at higher sites	100
2	Loss of hand and a foot	
3	Double amputation at leg or thigh	
4	Loss of eye sight to an extent to perform any work	
5	Very severe facial disfigurement	
6	Absolute deafness	

[Part-II]

List of injuries Deemed to result in permanent Partial Disablement Amputation cases

Srl.No	Description of Injury	%of loss of earning capacity
1	Amputation through shoulder Joint	90
to 46	Part with some loss of bone	3

SCHEDULE-III [section-3] List of Occupational Diseases (Part-A/B/C)**Part-A**

Srl.No	Occupational Disease	Employment
1	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination	a)All work involving exposure to health or laboratory work. b) All work involving exposure to veterinary work c) work carrying a particular risk of
to	Poisoning by Organo phosphorous	

5	compounds	contamination All works involving exposure to the risk concerned
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Part-B		
1 to 27	Disease caused by Phosphorous or its toxic compounds Disease due to effect of cold in cold climate	All works involving exposure to the risk concerned -Do-
Part-C		
1 to 5	Pneumoconiosis caused by sclerogenic mineral dust Bronchopulmonary diseases caused by hard metals	All works involving exposure to the risk concerned -Do-

SCHEDULE-IV [Section-4]

Factors for working out lump-sum equivalent of compensation amount in case of permanent disablement and death in respect to completed years of age on the last Birth day of the workman immediately preceding the date on which the compensation fell due

AGE	FACTORS	AGE	FACTORS	AGE	FACTORS
16	228.54	28	211.79	48	159.80
18	226.38	30	207.98	50	153.09
20	224.00	35	197.06	55	135.56
22	221.37	40	184.17	58	124.70
25	216.91	45	169.44	60	117.41

Note:-In cases where more injuries than one are caused by the same accident, the amount of compensation shall be aggregated but not so in any case as to exceed the amount which would have been payable in permanent total disablement had resulted from the injuries.