The Employees' Compensation Act, 1923: Employer Liability for Workplace Injury in Indian Labour Law and the Transition to the Code on Social Security, 2020

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Abstract*—The Employees' Compensation Act, 1923 (originally the Workmen's Compensation Act) was India's foundational statute on no-fault employer liability for work-related injury, death and occupational disease. This paper examines the Act's objectives, the scope of the terms "employee" and "dependent", the employer's liability under Section 3, the quantum of compensation, and the adjudicatory machinery of the Commissioner. It then reviews the judicial interpretation of the phrase "arising out of and in the course of employment", including the doctrine of notional extension and the Supreme Court's 2025 ruling on commuting accidents. Finally, it explains that the Act has been repealed and subsumed in Chapter VII of the Code on Social Security, 2020, in force from 21 November 2025, and identifies the practical issues that now confront employers, insurers and workers. The paper is doctrinal and relies on statutory text, case law and secondary commentary.

***Index Terms*—Code on Social Security 2020, Employee's compensation, Employer's liability, Labour law, Notional extension, Occupational disease, Workmen's compensation.**

I. INTRODUCTION

Industrialisation exposes workers to machinery, hazardous processes and long hours, and an injury can end a family's only income. Under the common law an injured worker had to prove the employer's negligence and could be defeated by defences such as contributory negligence or the fellow-servant rule. The Employees' Compensation Act, 1923 (the "EC Act") displaced this fault-based approach for the covered classes of work by making the employer liable to pay statutory compensation without proof of fault [1].

The EC Act was one of India's earliest labour welfare laws and remained central to workplace-injury law for over a century. It has now been repealed and its scheme re-enacted in Chapter VII of the Code on Social Security, 2020 (the "SS Code") [2]. A study of the EC Act therefore has two purposes: to understand the principles that continue to shape claims, and to see how they carry forward into the new regime. This paper covers both.

II. BACKGROUND AND OBJECTIVES

The Act was passed as the Workmen's Compensation Act, 1923. It was renamed the Employees' Compensation Act and the word "workman" was replaced by "employee" by the Workmen's Compensation (Amendment) Act, 2009 [3]. The 2009 amendment also raised the fixed minimum amounts payable and widened coverage.

The Act rests on three ideas. First, liability is no-fault: the employee need not prove negligence. Second, the cost of industrial accidents is treated as part of the cost of production and is placed on the employer, usually passed on to an insurer. Third, claims are decided by a specialised Commissioner through a summary procedure, so that payment is quick and inexpensive compared with a civil suit. Courts have repeatedly described the statute as beneficial social legislation to be construed liberally in favour of the worker.

The Act's status changed on 21 November 2025, when the relevant provisions of the SS Code were brought into force and the EC Act was repealed with savings [4]. Section VIII discusses the consequences.

III. SCOPE AND KEY DEFINITIONS

A. Employee

The Act protects an "employee", defined broadly to include persons employed in the railways, factories, mines, plantations, construction, docks, ships and other hazardous occupations listed in Schedule II, whether the contract is of service or of apprenticeship. Casual workers are covered if employed for the employer's trade or business. Persons in the armed forces and those whose employment is purely casual and outside the employer's trade or business were excluded, as were employees covered by the Employees' State Insurance Act, 1948 for the same injury, because the ESI scheme gave an alternative benefit.

B. Dependent

On the death of an employee, compensation is payable to dependents. The Act lists the widow, minor legitimate or adopted children, unmarried daughters, widowed mother and certain other relatives, some of whom qualify only if they were wholly or partly dependent on the earnings of the deceased. The Commissioner, not the employer, distributes the amount among them.

C. Wages and Relevant Factor

Compensation is computed from "monthly wages", subject to a statutory ceiling for the purposes of calculation, and a "relevant factor" taken from a schedule that varies with the employee's age. A younger employee has a larger factor because the loss of future earning years is greater.

IV. EMPLOYER'S LIABILITY

A. The General Rule

Section 3(1) makes the employer liable to pay compensation if personal injury is caused to an employee by an accident arising out of and in the course of employment [1]. Three elements are therefore necessary: (i) a personal injury, (ii) caused by an accident, and (iii) a nexus with employment, both causal ("arising out of") and temporal or spatial ("in the course of"). Death or

disablement from strain or exertion at work can itself be an accident if the work was the contributing cause, as the Supreme Court held in *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmed Issak* [5].

B. Exceptions

The employer is not liable where the injury does not result in total or partial disablement for more than three days. Liability is also excluded where the injury was caused by the employee's intoxication, by wilful disobedience of an express safety order or rule, or by wilful removal or disregard of a safety device. These exclusions do not apply to death or permanent total disablement claims in the form the Act allowed.

C. Occupational Diseases

Section 3(2) treats listed occupational diseases as injuries by accident. Schedule III is arranged in Parts A, B and C. For diseases in Part C, a minimum continuous period of employment in the specified work is required. The provision matters most in mining, chemical, asbestos and similar industries where harm accumulates slowly and an "accident" in the ordinary sense is hard to identify.

D. No Double Recovery

An employee may either claim under the Act or sue for damages in a civil court, but not both for the same injury. The bar reflects the compensatory design of the Act and avoids duplicate recovery.

V. COMPENSATION, INTEREST AND PENALTY

A. Amount Payable

Section 4 prescribes the amount by reference to the nature of the harm. The principal heads, as they stood after the 2009 amendment, are summarised in Table I.

TABLE I
PRINCIPAL HEADS OF COMPENSATION UNDER SECTION 4 OF THE EC ACT

Category	Basis of computation	Floor amount
Death	50% of monthly wages × relevant factor	₹1,20,000
Permanent total disablement	60% of monthly wages × relevant factor	₹1,40,000
Permanent partial disablement	Percentage of loss of earning capacity applied to the total-disablement amount	As per Schedule I
Temporary disablement	Half-monthly payment of 25% of monthly wages after waiting period	—
Funeral expenses	Lump sum on death	₹5,000

The Act distinguishes permanent total disablement from permanent partial disablement. For injuries listed in Schedule I, the percentage loss of earning capacity is fixed by the Schedule. For other injuries, the Commissioner assesses the loss of earning capacity on medical evidence. In *Pratap Narain Singh Deo v. Srinivas Sabata*, a carpenter lost an arm and the Supreme Court looked to the employee's actual capacity to perform the work he was engaged in, treating the loss as total disablement for that occupation [6]. The case shows that the Act is concerned with earning capacity and not merely with the anatomical injury.

B. Interest and Penalty

Compensation is due from the date of the accident. If the employer fails to pay within one month of the amount falling due, Section 4A requires simple interest at the statutory rate, and the Commissioner may also impose a penalty of up to fifty per cent of the amount where the delay was without justification. These sanctions are intended to prevent employers from using the pendency of the claim as a means of postponing payment.

VI. PROCEDURE AND ADJUDICATION

A claim begins with notice of the accident to the employer, followed by an application to the Commissioner for Employees' Compensation, who is appointed by the State Government and exercises quasi-judicial powers. The limitation period for a claim is ordinarily two years from the date of the accident or death, subject to condonation for sufficient cause.

In fatal cases the employer must deposit the compensation with the Commissioner, who then apportions it among the dependents. The Commissioner's jurisdiction extends to questions of liability, including who is an employee, whether the injury arose out of and in the course of employment, and the extent of disablement. Appeals lie to the High Court under Section 30, but only on a substantial question of law and, for most orders, on deposit of the amount awarded.

The Supreme Court restated these purposes in *Alok Kumar Ghosh v. New India Assurance Co. Ltd.*, 2025 INSC 1239, where it reasoned that the Act exists not only to grant compensation but to give the employee or dependants a speedy and effective remedy, and examined the Commissioner's power under Section 19 to decide liability questions, including the insurer's liability under the insurance contract [12].

VII. JUDICIAL INTERPRETATION

A. "Arising Out Of" and "In the Course Of"

The two limbs are cumulative. "In the course of" relates to the time, place and circumstances of employment. "Arising out of" requires a causal link between the employment and the accident, in the sense that the employment exposed the employee to the risk that caused the injury. Courts generally ask whether the injury was a risk incidental to the work and not one the employee brought on by a purely personal act.

B. Notional Extension

The courts have extended "in the course of employment" beyond the moment at which an employee is actually working. In *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja* the Supreme Court held that employees crossing a creek on their way from the place of work were still within the course of employment because the journey was incidental to the employment [7]. In *General Manager, B.E.S.T. Undertaking v. Agnes* the Court affirmed the same doctrine, treating the employee's presence in a reasonable area adjoining the workplace, in circumstances connected with the employment, as within the Act's protection [8]. The doctrine has since been applied to travel in employer-provided transport and to the approaches and exits of the workplace.

C. Commuting Accidents

Whether an injury on the ordinary journey between home and work is compensable was long unsettled. Before the ESI Act was amended to add Section 51E, decisions such as *Regional Director, ESI Corporation v. Francis De Costa* drew narrow lines on when a journey to or from work attracted liability [9].

On 29 July 2025 the Supreme Court decided *Daivshala v. Oriental Insurance Co. Ltd.*, 2025 INSC 904 [10]. The Court held that an accident to an employee commuting between residence and workplace can arise out of and in the course of employment under Section 3 of the EC Act, provided there is a nexus between the accident and the employment. It reached this conclusion by treating the ESI Act and the EC Act as beneficial statutes using the same phrase, and by reading Section 51E of the ESI Act as clarifying the ambiguity rather than creating a new right [11]. The decision widens the class of compensable claims and is likely to affect insurers' underwriting of employee-compensation policies.

D. Insurance and Employer Liability

In practice most claims are met by insurers under employee-compensation policies. The employer remains the primary obligor under the statute, but the Commissioner may determine insurer liability in the same proceeding, which avoids a second round of litigation [12].

VIII. TRANSITION TO THE CODE ON SOCIAL SECURITY, 2020

The SS Code amalgamates nine social-security enactments, including the EC Act, the ESI Act, the Employees' Provident Funds Act and the Maternity Benefit Act [2]. Its provisions were brought into force in stages, and the bulk of the Code took effect from 21 November 2025 [4]. Chapter VII (Sections 73 to 99) now governs employee compensation, and Section 164 and the Schedule repeal the EC Act [13].

Commentary indicates that Chapter VII re-enacts the 1923 scheme in a substantially similar form, but with some changes in structure and terminology [13]. Table II summarises the main points of difference noted in the sources consulted. Readers should verify the section numbers and amounts against the notified text and rules before relying on them for a particular claim.

TABLE II
EC ACT, 1923 AND THE SS CODE, 2020 COMPARED

Aspect	EC Act, 1923	SS Code, 2020
Status	Repealed with effect from 21 Nov 2025	In force; Chapter VII (ss. 73–99)
Adjudicator	Commissioner for Employees' Compensation (s. 19)	Competent authority (ss. 90–91)
Default sanction	Interest and penalty (s. 4A)	Interest and damages (s. 77(3))
Statutory setting	Stand-alone Act	One of nine schemes in a single Code

Two consequences follow. First, the case law summarised in Section VII was decided on language that the Code largely carries forward, so those precedents are likely to remain persuasive, although the Supreme Court has not yet been asked to decide each point under the Code. Second, claims arising from accidents before 21 November 2025 are expected to be governed by the savings provisions of the repeal, which makes it necessary to identify the date of the accident in every file.

IX. CHALLENGES AND SUGGESTIONS

Several difficulties of the EC Act era persist and deserve attention under the Code:

1) *Awareness and access.* Many workers in the informal sector do not know that they may claim, or fail to give notice and apply within the limitation period.
2) *Delay.* Contested medical assessment of disablement and appeals prolong disposal despite the summary design of the law.
3) *Uninsured employers.* Small establishments often carry no cover, leaving the worker to enforce a judgment against the employer.
4) *Quantum.* Fixed floor amounts and wage ceilings can fall behind inflation unless reviewed regularly.
5) *Transition.* Commissioners, insurers and courts need clear guidance on the savings clause and the new nomenclature.

Suggested measures include simpler digital filing, time-bound medical boards, mandatory insurance for hazardous work, periodic revision of wage ceilings, and awareness campaigns delivered through employers and worker associations.

X. CONCLUSION

The Employees' Compensation Act, 1923 established that the cost of work-related injury belongs to the enterprise and not to the injured worker. Its no-fault liability, schedule-based quantum and specialised forum shaped a century of Indian labour jurisprudence, and the courts developed a flexible reading of "arising out of and in the course of employment" that culminated, most recently, in recognition of commuting accidents. The Act has now been replaced by Chapter VII of the Code on Social Security, 2020. The principles remain, but the statutory home has changed, and practitioners and employers must adapt to the Code's provisions, rules and the savings clause. Future research should examine how courts apply the Code to platform and gig work.

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