

THE EMPLOYEE'S COMPENSATION ACT, 1923

ARRANGEMENT OF SECTIONS

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(c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter ¹[legitimate or illegitimate or adopted] if married and a minor or if widowed and a minor,

(d) a minor brother or a unmarried sister or a widowed sister if a minor,

(e) a widowed daughter-in-law,

(f) a minor child of a pre-deceased son,

(g) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(h) a paternal grandparent if no parent of the ²[employee] is alive.]

³[*Explanation.*—For the purpose of sub-clause (ii) and items (f) and (g) of sub-clause (iii), references to a son, daughter or child include an adopted son, daughter or child respectively;

⁴[(dd) “employee” means a person, who is—

(i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989 (24 of 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; or

(ii) (a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company,

and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or

(iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them;]

(e) “employer” includes anybody of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a ²[employee] are temporarily lent or let on hire to another person by the person with whom the ²[employee] has entered into a contract of service or apprenticeship, means such other person while the ²[employee] is working for him;

(f) “managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person’s trade or business, but does not include an individual manager subordinate to an employer;

1. Subs. by Act 30 of 1995, s. 2, for “legitimate or illegitimate” (w.e.f. 15-9-1995).

2. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010).

3. Ins. by Act 30 of 1995, 2 (w.e.f. 15-9-1995).

4. Ins. by Act 45 of 2009, s. 6 (w.e.f. 18-1-2010).

¹[(*ff*) “minor” means a person who has not attained the age of 18 years;]

(*g*) “partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a ²[employee] in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

provided that every injury specified ³[in Part II of Schedule I] shall be deemed to result in permanent partial disablement;

(*h*) “prescribed” means prescribed by rules made under this Act;

(*i*) “qualified medical practitioner” means any person registered ⁴* * * under any ⁵[Central Act, Provincial Act or an Act of the Legislature of a ⁶[State]] providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Act;

⁷* * * * *

(*k*) “seaman” means any person forming part of the crew of any ⁸* * * ship, but does not include the master of ⁹[the] ship;

(*l*) “total disablement” means such disablement, whether of a temporary or permanent nature, as incapacitates a ²[employee] for all work which he was capable of performing at the time of the accident resulting in such disablement:

¹⁰[Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of Schedule I or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part H against those injuries, amounts to one hundred per cent.’ or more;]

(*m*) “wages” includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a ²[employee] towards any pension or provident fund or a sum paid to a ²[employee] to cover any special expenses entailed on him by the nature of his employment;

¹¹* * * * *

(2) The exercise and performance of the powers and duties of a local authority or of any department ¹²[acting on behalf of the Government] shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the Trade or business of such authority or department.

1. In the application of the Act to Bengal, a new clause (*ff*) has been ins, here by the Workmen’s Compensation (Bengal Amendment) Act, 1942 (Ben. 6 of 1942), s. 3.
2. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f.18-1-2010)
3. Subs. by Act 64 of 1962, s. 2, for “in the First Schedule” (w.e.f. 1-2-1963).
4. The words and figures “under the Medical Act, 1858, or any Act amending the same, or” omitted by Act 8 of 1959, s. 2 (w.e.f. 1-6-1959).
5. Subs. by the A.O. 1950, for “Act of the Central Legislature or of any Legislature in a Province of India”
6. Subs. by the Adaptation of Laws (No. 3) Order, 1956, for “Part A State or Part B State”.
7. Clause (*j*) rep. by Act 15 of 1933, s. 2.
8. The word “registered” omitted by s. 2, *ibid.*
9. Subs. by s. 2, *ibid.*, for “any such”.
10. Subs. by Act 64 of 1962, s. 2, for the proviso (w.e.f. 1-2-1963).
11. Clause (*n*) omitted by Act 45 of 2009, s. 6 (w.e.f. 18-1-2010).
12. Subs. by A. O. 1937, for “of the Govt.”.

¹[(3) The Central Government or the State Government, by notification in the Official Gazette, after giving not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule H any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply, in case of a notification by the Central Government, within the territories to which the Act extends, or, in the case of a notification by the State Government, within the State, to such classes of person:

Provided that in making addition, the Central Government or the State Government, as the case may be, may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.]

CHAPTER II

²[Employee's] COMPENSATION

3. Employer's liability for compensation.—(1) If personal injury is caused to a ³[employee] by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the ³[employee] for a period exceeding ⁴[three] days;

(b) in respect of any ⁵[injury, not resulting in death ⁶[or permanent total disablement], caused by] an accident which is directly attributable to—

(i) the ³[employee] having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the ³[employee] to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employee's, or

(iii) the wilful removal or disregard by the ³[employee] of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of ⁷[employees] ^{8***}

^{9*} * * * * *

¹⁰[(2) If a ³[employee] employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a ³[employee], whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a ³[employee] whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the

1. Subs. by Act 30 of 1995, s.2, for sub-section (3) (w.e.f. 15-9-1995).

2. Subs. by s. 4, *ibid.*, for "Workmen's" (w.e.f. 18-1-2010)

3. Subs. by Act 45 of 2009, s. 5, for "workman" (w.e.f. 18-1-2010).

4. Subs. by Act 8 of 1959, s. 3, for "seven" (w.e.f.1-6-1959).

5. Subs. by Act 15 of 1933, s. 3, for "injury to a workman resulting from".

6. Ins. by Act 30 of 1995, s. 3 (w.e.f. 15-9-1995).

7. Subs. by Act 45 of 2009, s. 5, for "workmen" (w.e.f. 18-1-2010).

8. The word "or" omitted by Act 5 of 1929, s. 2.

9. Clause (c) omitted by s. 2, *ibid.*

10. Subs. by Act 8 of 1959, s. 3, for sub-sections (2) and (3) (w.e.f. 1-6-1959).

contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment:

¹[Provided that if it is proved,—

(a) that a ²[employee] whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this sub-section for that employment, and

(b) that the disease has arisen out of and in the course of the employment;

the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section:

Provided further that if it is proved that a ²[employee] who having served under any employer in any employment specified in Part B of Schedule III or who having served under one or more employers in any employment specified in Part C of that Schedule, for a continuous period specified under this sub-section for that employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to the employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section.]

³[(2A) If a ²[employee] employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.]

(3) ⁴[The Central Government or the State Government] after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply ⁵[in the case of a notification by the Central Government, within the territories to which this Act extends or, in case of a notification by the State Government, within the State] ^{6***} as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.]

(4) Save as provided by ⁷[sub-sections (2), (2A)] and (3) no compensation shall be payable to a ²[employee] in respect of any disease unless the disease is ^{8***} directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a ²[employee] in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a ²[employee] in any Court of law in respect of any injury—

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

1. Ins. by Act 64 of 1962, s. 3 (w.e.f. 1-2-1963).

2. Subs. by Act 45 of 2009, s. 5, for "workman" (w.e.f. 18-1-2010).

3. Subs. by Act 64 of 1962, s. 3, for sub-section (2A) (w.e.f. 1-2-1963).

4. Subs. by Act 30 of 1995, s. 3, for certain words (w.e.f. 15-9-1995).

5. Ins. by s. 3, *ibid.* (w.e.f. 15-9-1995).

6. Certain words omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).

7. Subs. by Act 8 of 1959, s. 3, for "sub-section (2)" (w.e.f. 1-6-1959).

8. The words "solely and" omitted by Act 15 of 1933, s. 3.

(b) if an agreement has been come to between the ¹[employee] and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

²**4. Amount of compensation.**—(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(a) where death results from the injury an amount equal to ³[fifty per cent.] of the monthly wages of the deceased ¹[employee] multiplied by the relevant factor;

or

an amount of ⁴[one lakh and twenty thousand rupees], whichever is more;

(b) where permanent total disablement results from the injury an amount equal to ⁵[sixty per cent.] of the monthly wages of the injured ¹[employee] multiplied by the relevant factor;

or

an amount of ⁶[one lakh and forty thousand rupees], whichever is more;

⁷[Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount of compensation mentioned in clauses (a) and (b);]

Explanation I.—For the purposes of clause (a) and clause (b), “relevant factor”, in relation to a ¹[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 ¹[employee] on his last birthday immediately preceding the date on which the compensation fell due.

⁸* * * * *

(c) where permanent partial disablement results from the injury. (i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury.

1. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010)

2. Subs. by Act 22 of 1984, s. 3, for s. 4 (w.e.f. 1-7-1984).

3. Subs. by Act 30 of 1995, s. 4, for “forty per cent.” (w.e.f. 15-9-1995).

4. Subs. by Act 45 of 2009, s. 7, for “eighty thousand rupees” (w.e.f. 18-1-2010). Earlier it was amended by Act 46 of 2000, s. 3 (w.e.f. 8-12-2000).

5. Subs. by Act 45 of 1995, s.4, for “fifty per cent.” (w.e.f. 15-9-1995).

6. Subs. by Act 45 of 2009, s. 7, for “ninety thousand rupees” (w.e.f. 18-1-2010). Earlier it was amended by Act 46 of 2000, s. 3 (w.e.f. 8-12-2000).

7. Ins. by s. 7, *ibid.* (w.e.f. 18-1-2010).

8. *Explanation II* omitted by s. 7, *ibid.* (w.e.f.18-1-2010).

Explanation I.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

Explanation II.—In assessing the loss of earning capacity for the purposes of sub-clause (ii), the qualified medical practitioner shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in Schedule I;

(d) where temporary disablement, whether total or partial results from the injury a half-monthly payment of the sum equivalent to twenty-five per cent. of monthly wages of the ¹[employee], to be paid in accordance with the provisions of sub-section (2).

²[(1A) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to a ¹[employee] in respect of an accident occurred outside India, the Commissioner shall take into account the amount of compensation, if any, awarded to such ¹[employee] in accordance with the law of the country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the ¹[employee] in accordance with the law of that country.]

³[(1B) The Central Government may, by notification in the Official Gazette, specify, for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary;]

(2) 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; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:

Provided that—

(a) there shall deducted from any lump sum or half-monthly payments to which the ¹[employee] is entitled the amount of any payment or allowance which the ¹[employee] has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be; and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the ¹[employee] before the accident exceeds half the amount of such wages which he is earning after the accident.

Explanation.—Any payment or allowance which the ¹[employee] has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (a) of the proviso.

³[(2A) The employee shall be reimbursed the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment.]

1. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010).
2. Ins. by Act 30 of 1995, s. 4 (w.e.f. 15-9-1995).
3. Ins. by Act 45 of 2009, s. 7 (w.e.f. 18-1-2010).

(3) On the ceasing of the disablement before the date on which any half-monthly payment falls due there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.]

¹[(4) If the injury of the ²[employee] results his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the Commissioner a sum of ³[two thousand and five hundred rupees] for payment of the same to the eldest surviving dependant of the ²[employee] towards the expenditure of the funeral of such ²[employee] or where the ²[employee] did not have a dependant or was not living with his dependant at the time of his death to the person who actually incurred such expenditure.]

⁴[Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount specified in this sub-section.]

⁵**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 ²[employee], as the case may be, without prejudice to the right of the ²[employee] to make any further claim.

⁶[(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:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

Explanation.—For the purposes of this sub-section, “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934.

⁷[(3A) The interest and the penalty payable under sub-section (3) shall be paid to the ²[employee] or his dependant, as the case may be.]

5. ⁸**[Method of calculating wages.**—^{8***} ⁹[In this Act and for the purposes thereof the expression “monthly wages” means me amount of wages deemed to be payable for a month’s service (whether the

1. Ins. by Act 30 of 1995, s. 4 (w.e.f.15-9-1995).

2. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f.18-1-2010).

3. Subs. by Act 46 of 2000, s. 3, for “one thousand rupees” (w.e.f.8-12-2000).

4. Ins. by Act 45 of 2009, s. 7 (w. e. f. 18-1-2010).

5. Ins. by Act 8 of 1959, s. 5 (w.e.f.1-6-1959).

6. Subs. by Act 30 of 1995, s. 5 for sub-section (3) (w.e.f.15-9-1995),

7. Subs. by Act 46 of 2000, s. 4, for sub-section (3A) (w.e.f.8-12-2000).

8. The brackets and figure “(1)” omitted by Act 9 of 1938, s. 4. Earlier section 5 was re-numbered as sub-section (1) of that section by Act 5 of 1929, s. 3.

9. Subs. by Act 13 of 1939, s. 2 (w.e.f. 30-6-1934), for “For the purposes of this Act the monthly wages of a workman shall be calculated”. The words in italics subs. by Act 15 of 1933, s. 5, for “section 4”.

wages are payable by the month or by whatever other period or at piece rates), and calculated] as follows, namely:—

(a) where the ¹[employee] has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the ¹[employee] shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

²[(b) where the whole of the continuous period of service immediately preceding the accident during which the ¹[employee] was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the ¹[employee] shall be ^{3****} the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a ¹[employee] employed on the same work by the same employer, or, if there was no ¹[employee] so employed, by a ¹[employee] employed on similar work in the same locality;]

⁴[(c)] ⁵[in other cases [including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b)], the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

^{6*} * * * *

Explanation.—A period of service shall, for the purposes of ⁷[this ⁸[section]] be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

^{9*} * * * *

6. Review.—(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the ¹[employee] accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the ¹[employee] or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the ¹[employee] is entitled less any amount which he has already received by way of half-monthly payments.

7. Commutation of half-monthly payments.—Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

1. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010).
2. Ins. by Act 15 of 1933, s. 5.
3. The words “deemed to be” omitted by Act 13 of 1939, s. 2 (w.e.f. 30-6-1934).
4. Clause (b) relettered as clause (c) by Act 15 of 1933, s. 5.
5. Subs. by Act 8 of 1959, s. 6, for “in other cases” (w.e.f. 1-6-1959).
6. The proviso omitted by Act 15 of 1933, s. 5.
7. Subs. by Act 5 of 1929, s. 3, for “this section”.
8. Subs. by Act 9 of 1938, s. 4, for “sub-section”.
9. Sub-section (2) omitted by Act 15 of 1933, s. 5. Earlier it was added by Act 5 of 1929, s. 3.

8. Distribution of compensation.—¹[(1) No payment of compensation in respect of a ²[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:

³[Provided that, in the case of a deceased ²[employee], an employer may make to any dependant advances on account of compensation ⁴[of an amount equal to three months' wages of such ²[employee] and so much of such amount] as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.]

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.]

(4) On the deposit of any money under sub-section (1) ⁵[as compensation in respect of a deceased ²[employee] the Commissioner ⁶*** shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

⁷[(5) Compensation deposited in respect of a deceased ²[employee] shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased ²[employee] or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the employee or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the ²[employee].]

⁸[(8) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

1. Subs. by Act 5 of 1929, s. 4, for sub-sections (1) to (3).

2. Subs. by Act 45 of 2009, s. 5, for "workman" (w.e.f.18-1-2010).

3. Subs. by Act 15 of 1933, s. 6, for the proviso.

4. Ins. by Act 5 of 1929, s. 4.

5. Subs. by Act 30 of 1995, s. 6, for certain words (w.e.f.15-9-1995).

6. Certain words omitted by Act 30 of 1995, s. 6 (w.e.f.15-9-1995).

7. Subs. by Act 5 of 1929, s. 4, for sub-section (5).

8. Sub-section (6) renumbered as sub-section (8) by Act 5 of 1929, s. 4.

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

¹[(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31].

9. Compensation not to be assigned, attached or charged.—Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the ²[employee] by operation of law, nor shall any- claim be set off against the same.

10. Notice and claim.—(1) ³[No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within ⁴[two years] of the occurrence of the accident or, in case of death, within ⁴[two years] from the date of death:]

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the ²[employee] was continuously absent from work in consequence of the disablement caused by the disease:

⁵[Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the ²[employee] to absent himself from work, the period of two years shall be counted from the day the ²[employee] gives notice of the disablement to his employer:

Provided further that if a ²[employee] who, having been employed in an employment for a continuous period, specified under sub-section (2) of section 3 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected:]

⁶[Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the ⁷[entertainment of a claim]—

(a) if the claim is ⁸[preferred] in respect of the death of a ²[employee] resulting from an accident which occurred on the premises of the employer, or at any place where the ²[employee] at the time of the accident was working under the control of- the employer or of any person employed by him, and the ²[employee] died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer ⁹[or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured ²[employee] was

1. Ins. by Act 5 of 1929, s. 4.
2. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010).
3. Subs. by Act 9 of 1938, s. 5, for the original words.
4. Subs. by Act 8 of 1959, s. 8, for “one year” (w.e.f. 1-6-1959).
5. Ins. by Act 64 of 1962, s. 5 (w.e.f. 1-2-1963).
6. Ins. by Act 15 of 1933, s. 7.
7. Subs. by Act 9 of 1938, s. 5, for “maintenance of proceedings”.
8. Subs. by s. 5, *ibid.*
9. Ins. by s. 5, *ibid.*

employed] had knowledge of the accident from any other source at or about the time when it occurred:

Provided further, that the Commissioner may ¹[entertain] and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been ²[preferred], in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice of ³[prefer] the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the persons injured and shall state in ordinary language the cause for the injury and the date on which the accident happened, and shall be served on the employer or upon ⁴[any one of] several employers, or upon any person ⁵*** responsible to the employer for the management of any branch of the trade or business in which the injured ⁶[employee] was employed.

⁷[(3) The State Government may require that any prescribed class of employers shall maintain at their premises at which ⁸[employees] are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured ⁶[employee] employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.]

⁹[10A. **Power to require from employers statements regarding fatal accidents.**—(1) Where a Commissioner receives information from any source that a ⁶[employee] has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the ⁶[employee], and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependants of the deceased ⁶[employee], that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

1. Subs. by Act 9 of 1938, s. 5, for "admit".

2. Subs. by s. 5, *ibid.*, for "instituted".

3. Subs. by s. 5, *ibid.*, for "institute".

4. Subs. by Act 7 of 1924, s. 2 and the First Schedule, for "any one or".

5. The word "directly" omitted by Act 9 of 1938, s. 5.

6. Subs. by Act 45 of 2009, s. 5, for "workman" (w.e.f. 18-1-2010).

7. Subs. by Act 15 of 1933, s. 7, for sub-section (3).

8. Subs. by Act 45 of 2009, s. 5, for "workmen" (w.e.f. 18-1-2010).

9. Ins. by Act 15 of 1933, s. 8.

10B. Reports of fatal accidents and serious bodily injuries.—(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death ¹[or serious bodily injury], the person required to give the notice shall, within seven days of the death ¹[or serious bodily injury], send a report to the Commissioner giving the circumstances attending the death ¹[or serious. bodily injury]:

Provided that where the State Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

¹[*Explanation.*—“Serious bodily injury” means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.]

(2) The State Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner:

¹[(3) Nothing in this section shall apply to factories to which the Employees’ State Insurance Act, 1948 (34 of 1948), applies.]

11. Medical examination.—(1) Where a ²[employee] has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any ²[employee] who is in receipt of a half monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that a ²[employee] shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a ²[employee], on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the’ case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a ²[employee], before the expiry of period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a ²[employee], whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased ²[employee].

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (d) of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

1. Ins. by Act 8 of 1959, s. 9 (w.e.f.1-6-1959).

2. Subs. by Act 45 of 2009, s. 5, for “Workman” (w.e.f.18-1-2010).

(6) Where an injured ¹[employee] has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, ²[if it is proved that the ¹[employee] has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable] in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the ¹[employee] had been regularly attended by a qualified medical practitioner ³[whose instructions he had followed], and compensation, if any, shall be payable accordingly.

12. Contracting.—(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any ¹[employee] employed in the execution of the work any compensation which he would have been liable to pay if that ¹[employee] had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the ¹[employee] under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor ⁴[, or any other person, from whom the ¹[employee] could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the ¹[employee] could have recovered compensation] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a ¹[employee] from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

13. Remedies of employer against stranger.—Where a ¹[employee] has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

14. Insolvency of employer.—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any ¹[employee], then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the ¹[employee], and upon any such transfer the insurers shall have the same rights and remedies and be

1. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f.18-1-2010).

2. Subs. by Act 9 of 1938, s. 6, for certain words.

3. Ins. by s. 6, *ibid.*

4. Ins. by Act 15 of 1933, s. 9.

subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the ¹[employee] than they would have been under to the employer.

(2) If the liability of the insurers to the ¹[employee] is less than the liability of the employer to the ¹[employee], the ¹[employee] may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the ¹[employee]:

Provided that the provisions of this sub-section shall not apply in any case in which the ¹[employee] fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (3 of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920), or under ²[section 530 of the Companies Act, 1956 (1 of 1956)] are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability where for accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

³[14A. **Compensation to be first charge on assets transferred by employer.**—Where an employer transfers his assets before any amount due in respect of any compensation, the liability where for accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.]

15. Special provisions relating to masters and seamen.—This Act shall apply in the case of ⁴[employees] who are masters of ⁵*** ships or seamen subject to the following modifications namely:—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship it shall not be necessary for any seaman to give any notice of the accident.

1. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f.18-1-2010).

2. Subs. by Act 30 of 1995, s. 7, for certain words (w.e.f.15-9-1995).

3. Ins. by Act 8 of 1959, s. 10 (w.e.f.1-6-1959).

4. Subs. by Act 45 of 2009, s. 5, for “workmen” (w.e.f.18-1-2010).

5. The word “registered” omitted by Act 15 of 1933, s. 10.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within ¹[one year] after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost:

²[Provided that the Commissioner may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.]

(3) Where an injured master or seaman is discharged or left behind in any part of ³[India or] ⁴[in any foreign country] any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he., had that opportunity and that it was so made.

⁵* * * * *

⁶[(4)] No ⁷[half-monthly payment] shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being ⁸**** relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

⁹[(5)] No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939 (2 & 3 Geo.), or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942 (6, c. 83), made by the Central Government.

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if—

1. Subs. by Act 8 of 1959, s. 11, for “six months” (w.e.f. 1-6-1959).
2. Added by s. 11, *ibid.* (w.e.f. 1-6-1959).
3. Ins. by the A.O. 1950.
4. Subs. by Act 22 of 1984, s. 4, for certain words (w.e.f. 1-7-1984).
5. Clause (4) omitted by Act 9 of 1938, s. 7.
6. Clause (5) renumbered as clause (4) of that section by s. 7, *ibid.*
7. Subs. by Act 7 of 1924, s. 2 and the First Schedule, for “monthly payment”.
8. The words “in Part A States and Part C States” omitted by Act 3 of 1951, s. 3, and the Schedule.
9. Subs. by Act 1 of 1942, s. 2 (w.e.f. 3-9-1939).

(a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and

(b) the State Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and

(c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the State Government was furnished to the person commencing the proceedings.]

¹**[15A. Special provisions relating to captains and other members of crew of aircrafts.]**—This Act shall apply in the case of ²[employees] who are captains or other members of the crew of aircrafts subject to the following modifications, namely:—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the captain of the aircraft, be served on the captain of the aircraft as if he were the employer, but where the accident happened and the disablement commenced on board the aircraft it shall not be necessary for any member of the crew to give notice of the accident.

(2) In the case of the death of the captain or other member of the crew, the claim for compensation shall be made within one year after the news of the death has been received by the claimant or, where the aircraft has been or is deemed to have been lost with all hands, within eighteen months of the date on which the aircraft was, or is deemed to have been, so lost:

Provided that the Commissioner may entertain any claim for compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(3) Where an injured captain or other member of the crew of the aircraft is discharged or left behind in any part of India or in any other country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claims, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness;

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceedings was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

15B. Special provisions relating to ²[employees] abroad of companies and motor vehicles.—This Act shall apply—

(i) in the case of ²[employees] who are persons recruited by companies registered in India and working as such abroad, and

1. Ins. by Act 30 of 1995, s. 8 (w.e.f. 15-9-1995).

2. Subs. by Act 45 of 2009, s. 5, for “workmen” (w.e.f. 18-1-2010).

(ii) persons sent for work abroad along with motor vehicles registered under the Motor Vehicles, Act, 1988 (59 of 1988) as drivers, helpers, mechanics, cleaners or other ¹[employees], subject to the following modifications, namely:—

(1) The notice of the accident and the claim for compensation may be served on the local agent of the company, or the local agent of the owner of the motor vehicle, in the country of accident, as the case may be.

(2) In the case of death of the ²[employee] in respect of whom the provisions of this section shall apply, the claim for compensation shall be made within one year after the news of the death has been received by the claimant:

Provided that the Commissioner may entertain any claim for compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this subsection, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(3) Where an injured ²[employee] is discharged or left behind in any part of India or in any other country any depositions taken by any Judge or Magistrate in that part or by any Consular Officer, in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claims, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness;

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of ‘the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.]

16. Returns as to compensation.—The ³[State Government] may by notification in the Official Gazette, direct that every person employing ¹[employees], or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation together with such other particulars as to the compensation as the ³[State Government] may direct.

17. Contracting out.—Any contract or agreement whether made before or after the commencement of this Act, whereby a ²[employee] relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

⁴[**17A. Duty of employer to inform employee of his rights.**—Every employer shall immediately at the time of employment of an employee, inform the employee of his rights to compensation under this

1. Subs. by Act 45 of 2009, s. 5, for “workmen” (w.e.f. 18-1-2010).

2. Subs. by s. 5, *ibid.*, for “workman” (w.e.f. 18-1-2010).

3. Subs. by the A.O. 1937, for “G.G. in C”.

4. Ins. by Act 11 of 2017, s. 2 (w.e.f. 15-5-2017).

Act, in writing as well as through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee.]

18. [Proof of age.] *Rep. by the Workmen's Compensation (Amendment) Act, 1959 (8 of 1959), s. 12 (w.e.f. 1-6-1959).*

¹[**18A. Penalties.**—(1) Whoever—

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(c) fails to send a report which he is required to send under section 10B, or

(d) fails to make a return which he is required to make under ²[section 16, or]

³[(e) fails to inform the employee of his rights to compensation as required under section 17A;]

shall be punishable with fine ⁴[which shall not be less than fifty thousand rupees but which may extend to one lakh rupees].

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made ⁵[within six months of the date on which the alleged commission of the offence came to the knowledge of the Commissioner].]

CHAPTER III

COMMISSIONERS

19. Reference to Commissioners.—(1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a ⁶[employee]) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by ⁷[a Commissioner].

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be 'settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. Appointment of Commissioners.—(1) The State Government may, by notification in the Official Gazette, ⁸[who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or a pleader or is or has been a Gazetted Officer for not less than five years having education qualifications and experience in personnel management, human resource development and industrial relations] appoint any person to be a Commissioner for Workmen's Compensation for such ⁹*** area as may be specified in the notification.

1. Ins. by Act 15 of 1933, s. 11.

2. Subs. by Act 11 of 2017, s. 3, for "section 16" (w.e.f. 15-5-2017).

3. Ins. by s. 3, *ibid.* (w.e.f. 15-5-2017).

4. Subs. by s. 3, *ibid.*, for "which may extend to five thousand rupees" (w.e.f. 15-5-2017).

5. Subs. by Act 64 of 1962, s. 6, for certain words (w.e.f. 1-2-1963).

6. Subs. by Act 45 of 2009, s. 5, for "workman" (w.e.f. 18-1-2010).

7. Subs. by Act 15 of 1933, s. 12, for "the Commissioner".

8. Ins. by Act 45 of 2009, s. 8 (w.e.f. 18-1-2010).

9. The word "local" omitted by Act 64 of 1962, s. 7 (w.e.f. 1-2-1963).

¹[(2) Where more than one Commissioner had been appointed for any ^{2***} area, the State Government may, by general or special order, regulate the distribution of business between them.]

³[(3)] Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

³[(4)] Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

21. Venue of proceedings and transfer.—⁴[(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the area in which—

(a) the accident took place which resulted in the injury; or

(b) the ⁵[employee] or in case of his death, the dependant claiming the compensation ordinarily resides; or

(c) the employer has his registered office:

Provided that no matter shall be processed before or by a Commissioner, other than the Commissioner having jurisdiction over the area in which the accident took place, without his giving notice in the manner prescribed by the Central Government to the Commissioner having jurisdiction over the area and the State Government concerned:

Provided further that, where the ⁵[employee], being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or a ⁵[employee] in a motor vehicle or a company, meets with the accident outside India any such matter may be done by or before a Commissioner for the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.

(1A) If a Commissioner, other than the Commissioner with whom any money has been deposited under section 8, proceeds with a matter under this Act, the former may for the proper disposal of the matter call for transfer of any records or money remaining with the latter and on receipt of such a request, he shall comply with the same.]

(2) If a Commissioner is satisfied ⁶[that any matter arising out of any proceedings pending before him] can be more conveniently dealt with by any other Commissioner, whether in the same State or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

1. Ins. by Act 15 of 1933, s. 13.

2. The word "local" omitted by Act 64 of 1962, s. 7 (w.e.f. 1-2-1963).

3. Sub-section (2) and (3) renumbered as sub-sections (3) and (4) to that section respectively by Act 15 of 1933, s. 13.

4. Subs. by Act 30 of 1995, s. 10, for sub-section (1), (w.e.f. 15-5-1995).

5. Subs. by Act 45 of 2009, s. 5, for "workman" (w.e.f. 18-1-2010).

6. Subs. by Act 9 of 1938, s. 9, for certain words.

¹[Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard:]

²* * * * *

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire there into and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it, was referred shall decide the matter referred in conformity with such report.

³[(5) The State Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.]

22. Form of application.—⁴[(1) Where an accident occurs in respect of which liability to pay compensation under this Act arises, a claim for such compensation may, subject to the provisions of this Act, be made before the Commissioner.

(1A) Subject to the provisions of sub-section (1), no application for the settlement] of any matter by a Commissioner, ⁵[other than an application by a dependant or dependants for compensation] shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) ⁶[An application to a Commissioner] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

(a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(c) the names and addresses of the parties; and

(d) ⁵[except in the case of an application by dependants for compensation] a concise statement of the matters on which agreement has and ⁷[of] those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

⁸**22A. Power of Commissioner to require further deposit in cases of fatal accident.**—(1) Where any sum has been deposited by an employer as compensation payable in respect of a ⁹[employee] whose

1. Ins. by Act 9 of 1938, s. 9.

2. Second proviso omitted by s. 10, *ibid.* (w.e.f. 15-9-1995).

3. Ins. by Act 15 of 1933, s. 14.

4. Subs. by Act 30 of 1995, s. 11, for certain words (w.e.f. 15-9-1995).

5. Ins. by Act 15 of 1933, s. 15.

6. Subs. by s. 15, *ibid.*, for “where any such question has arisen, the application”.

7. Subs. by Act 37 of 1925, s. 2 and the First Schedule, for “on”.

8. Ins. by Act 15 of 1933, s. 16.

9. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010).

injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.]

23. Powers and procedure of Commissioners.—The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, ¹[and the Commissioner shall be deemed to be a Civil Court for all the purposes of ²[section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)].

³[**24. Appearance of parties.**—Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector appointed under sub-section (I) of section 8 of the Factories Act, 1948 (63 of 1948), or under sub-section (I) of section 5 of the Mines Act, 1952 (35 of 1952), or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the Commissioner, by any other person so authorised.]⁴

25. Method of recording evidence.—The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

⁵[**25A. Time limit of disposal of cases relating to compensation.**—The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.]

26. Costs.—All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

27. Power to submit cases.—A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

28. Registration of Agreements.—(I) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way or redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable ⁶[to a woman or a person under a legal

1. Ins. by Act 5 of 1929, s. 5.

2. Subs. by Act 30 of 1995, s. 12, for certain words (w.e.f. 15-9-1995).

3. Subs. by Act 8 of 1959, s. 14, for s. 24 (w.e.f. 1-6-1959).

4. In the application of the Act to Bengal, new sections 24A and 24B have been ins. here by Ben. Act 6 of 1942, s. 4.

5. Ins. by Act 45 of 2009, s. 9 (w.e.f. 18-1-2010).

6. Subs. by Act 5 of 1929, s. 6, for certain words.

disability] ^{1***} a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

^{2*} * * * * *

(c) the Commissioner may at any time rectify the register;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable ³[to a woman or a person under a legal disability] ^{4***} ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement ⁵[and may make such order] including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872 (9 of 1872), or in any other law for the time being in force.

29. Effect of failure to register agreement.—Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the ⁶[employee] by way of compensation whether under the agreement or otherwise.

30. Appeals.—(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

⁷[(aa) an order awarding interest or penalty under section 4A;]

(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased ⁶[employee], or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the

1. The words “or to a dependant” omitted by Act 7 of 1924, s. 3 and the Second Schedule.
2. Clause (b) omitted by Act 5 of 1929, s. 6.
3. Subs. by Act 5 of 1929, s. 6, for certain words.
4. The words “or to any dependant” omitted by Act 7 of 1924, s. 3 and the Second Schedule.
5. Subs. by Act 7 of 1924, s. 2 and the Schedule, for “or may make such order”.
6. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f. 18-1-2010).
7. Ins. by Act 8 of 1959, s. 15 (w.e.f. 1-6-1959).

amount in dispute in the appeal is not less than ¹[ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify]:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

²[Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of ³[the Indian Limitation Act, 1963 (36 of 1963)] shall be applicable to appeals under this section.

30A. [*Withholding of certain payments pending decision of appeal*].—*Omitted by the Employee's Compensation (Amendment) Act 2017, s. 5 (w.e.f. 15-5-2017).*

31. Recovery.—The Commissioner may recover is an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (1 of 1890)⁴.

CHAPTER IV

RULES

32. Power of the State Government to make rules.—(1) The ⁵[State Government] may make rules⁶ to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

(b) for prescribing the intervals at which and the conditions subject to, which a ⁷[employee] may be required to submit himself for medical examination under sub-section (1) of section 11;

(c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased ⁷[employee] and for the transfer of money so invested from one Commissioner to another;

1. Subs. by Act 11 of 2017, s. 4, for “three hundred rupees” (w.e.f.15-5-2017).

2. Ins. by Act 15 of 1933, s. 17.

3. Subs. by Act 30 of 1995, s. 13, for certain words (w.e.f.15-9-1995).

4. In the application of the Act to Bengal, a new s. 31A has been ins. here by the Bengal Touts Act, 1942 (Ben. 5 of 1942), s. 12.

5. Subs. by the A. O. 1937, for “G. G. in C”,

6. For the Workmen's Compensation Rules, 1924, see Gazette of India, 1924, Pt. I, p 586.

7. Subs. by Act 45 of 2009, s. 5, for “workman” (w.e.f.18-1-2010).

(f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;¹

(g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;

(h) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on applications for review of the same;^{2***}

²* * * * *

²[(i) for regulating the scales of costs which may be allowed in proceedings under this Act;

(j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;

(k) for the maintenance by Commissioners of registers and records of proceedings before them;

(l) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books;

(m) for prescribing the form of statement to be submitted by employers under section 10A;^{3***}

(n) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner;]

⁴[(o) for prescribing abstracts of this Act and requiring the employers to display notices containing such abstracts;

(p) for prescribing the manner in which diseases specified as occupational diseases may be diagnosed;

(q) for prescribing the manner in which diseases may be certified for any of the purposes of this Act;

(r) for prescribing the manner in which, and the standards by which, incapacity may be assessed.]

⁵[(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature].

33. [Power of Local Government to make rules.] Rep. by the A.O. 1937.

34. Publication of rules.—(1) The power to make rules conferred by ⁶[section 32] shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 GO of 1897); as that after which a draft of rules proposed to be made under section 32 ^{7***} will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

1. In the application of the Act of Bengal, new clauses (ff), (ff1) and (ff2) have been inserted here by Ben, Act 6 of 1942, s. 5.
2. The word “and” at the end of clause (h) and the original clause (i) omitted, and the new clauses, (i) to (n), which were the same as clauses, (a) to (f) of s. 33, ins. by the A. O. 1937.
3. The word “and” omitted by Act 58 of 1960, s. 3 and the Second Schedule.
4. Ins. by Act 8 of 1959, s. 16 (w.e.f.1-6-1959).
5. Ins. by Act 4 of 1986, s. 2 and Schedule (w.e.f.15-5-1986).
6. Subs. by the A.O. 1937, for “sections 32 and 33”.
7. The words and figures “or section 33” rep.; *ibid*.

(3) Rules so made shall be published in ^{1****} the Official Gazette ^{2****} and, on such publication, shall have effect as if enacted in this Act.

³**[35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.—**⁴*[(1)]* The Central Government may by notification in the Official Gazette, make rules for the transfer ^{5****} ⁶[to any foreign country] of money ⁷[deposited with] a Commissioner under this Act ⁸[which has been awarded to or may be due to], any person residing or about to reside in ⁹[such foreign country] and for the receipt ¹⁰[distribution] and administration in ¹¹[any State] of any money ¹²[deposited] under the law relating to Workmen's compensation ^{13****} ¹⁴[in any foreign country], ¹⁵[which has been awarded to, or may be due to] any person residing or about to reside in ¹¹[any State]:]

¹⁰[Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-section (4) and (5) of section 8.]

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation' deposited with him shall cease to apply in respect of any such money.

¹⁶**[36. Rules made by Central Government to be laid before Parliament.—**Every rule made under this Act by the Central Government shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in ¹⁷[two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. The words "The Gazette of India or" rep., by the A. O. 1937.

2. The words "as the case may be" rep., *ibid.*

3. Ins. by Act 15 of 1933, s. 20.

4. The original s. 35 renumbered as sub-section (1) of that section by Act 7 of 1937, s. 2.

5. The words "to any Part B State or" ins. by the A.O. 1948, omitted by Act 3 of 1951, s. 3 and the Schedule.

6. Subs. by Act 22 of 1984, s. 5, for certain words (w.e.f.1-7-1984).

7. Subs. by Act 7 of 1937, s. 2, for "paid to".

8. Subs. by s. 2, *ibid.*, for "for the benefit of".

9. Subs. by Act 22 of 1984, -s. 5, for "such part of country" (w.e.f.1-7-1984).

10. Ins. by Act 7 of 1937, s. 2.

11. Subs. by Act 3 of 1951, s. 3 and Schedule, for "a Part A State or Part C State".

12. Subs. by Act 7 of 1937, s. 2, for "awarded".

13. The words "in any Part B State or" ins. by the A.O. 1950, first five words were omitted by Act 3 of 1951, s. 3 and the Schedule, and the word "or" was omitted by Act 36 of 1957, s. 3 and the Second Schedule.

14. Subs. by Act 22 of 1984, s. 5, for certain words (w.e.f.1-7-1984).

15. Subs. by Act 7 of 1937, s. 2, for "and applicable for the benefit of".

16. Ins. by Act 64 of 1962, s. 8 (w.e.f.1-2-1963).

17. Subs. by Act 65 of 1976, s. 3, for certain words (w.e.f.21-5-1976).

¹[SCHEDULE I
[See sections 2(1) and (4)]
²[PART I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT]

Serial No.	Description of injury	Percentage of loss of earning capacity
1.	Loss of both hands or amputation at higher sites.....	100
2.	Loss of a hand and a foot.....	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.....	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential.....	100
5.	Very severe facial disfigurement.....	100
6.	Absolute deafness.....	100

³[PART II

LIST OF INJURIES DEEMED TO- RESULT IN PERMANENT PARTIAL DISABLEMENT]
Amputation cases—upper limbs (either arm)

⁴ [1]	Amputation through shoulder joint.....	90
⁴ [2]	Amputation below shoulder with stump less than ⁵ [20.32 cms.] from tip of acromion	80
⁶ [3]	Amputation from ⁷ [20.32 cms] from tip of acromion to less than ⁷ [11.43cms.] below tip of olecranon.....	70
⁶ [4]	Loss of a hand or of the thumb and four fingers of one hand or amputation from ⁶ [11.43] below tip of olecranon.....	60
⁶ [5]	Loss of thumb.....	30
⁶ [6]	Loss of thumb and its metacarpal bone.....	40
⁶ [7]	Loss of four fingers of one hand.....	50
⁶ [8]	Loss of three fingers of one hand.....	30
⁶ [9]	Loss of two fingers of one hand.....	20
⁶ [10]	Loss of terminal phalanx of thumb.....	20
⁶ [10A]	Guillotine Amputation of tip of thumb without loss of bone.....	10]

1. Subs. by Act 8 of 1959, s. 17, for the First Schedule (w.e.f. 1-6-1959).

2. Subs. by Act 64 of 1962, s. 9, for heading (w.e.f. 1-2-1963).

3. Ins. by s. 9, *ibid.* (w.e.f. 1-2-1963).

4. Serial Nos. 7 to 54 renumbered as serial Nos. 1 to 48 respectively by s. 9, *ibid.* (w.e.f. 1-2-1963).

5. Subs. by Act 30 of 1995, s. 14, for "8" (w.e.f. 15-9-1995).

6. Serial Nos. 7 to 54 renumbered as serial Nos. 1 to 48 respectively by Act 64 of 1962, s. 9 (w.e.f. 1-2-1963).

7. Subs. by Act 30 of 1995, s. 14 for certain numbers (w.e.f. 15-9-1995).

Serial No.	Description of injury	Percentage of loss of earning capacity
<i>Amputation cases—lower limbs</i>		
¹ [11]	Amputation of both feet resulting in end-bearing tumps.....	90
¹ [12]	Amputation through both feet proximal to the metatarso-phalangeal joint...	80
¹ [13]	Loss of all toes of both feet through the metatarso-phalangeal joint.....	40
¹ [14]	Loss of all toes of both feet proximal to the proximal interphalangeal joint.....	30
¹ [15]	Loss of all toes of both feet distal to the proximal interphalangeal joint.....	20
¹ [16]	Amputation at hip.....	90
¹ [17]	Amputation below hip with stump not exceeding ² [12.70 cms.] in length measured from tip of great trochanter.....	80
¹ [18]	Amputation below hip with stump exceeding ² [12.70 cms.] in length measured from tip of great trochanter but not beyond middle thigh.....	70
¹ [19]	Amputation below hip middle thigh to ² [8.89cms.] blownee.....	60
¹ [20]	Amputation below knee with stump exceeding [8.89] but not exceeding 5".....	[50]1
¹ [21]	Amputation below knee with stump exceeding ² [12.70 cms.].....	[50]1
¹ [22]	Amputation of one foot resulting in end-bearing.....	[50]1
¹ [23]	Amputation through one foot proximal to the metatarso-phalangeal joint.....	50
¹ [24]	Loss of all toes of one foot through the metatarso-phalangeal joint.....	20
<i>Other injuries</i>		
¹ [25]	Loss of one eye, without complication, the other being normal.....	40
¹ [26]	Loss of vision of one eye, without complications or disfigurement of eyeball, the other being normal.....	30
³ [26A]	Loss of partial vision of one eye.....	10

1. Subs. by Act 30 of 1995, s. 14 for certain numbers (w.e.f. 15-9-1995).

2. Serial No. 7 to 54 as serial Nos. 1 to 48 respectively by Act 64 of 1962 s. 9 (w.e.f. 1-2-1963).

3. Ins. by s. 14, *ibid.* (w.e.f. 15-9-1995).

Serial No.	Description of injury	Percentage of loss of earning capacity
<i>Loss of—</i>		
<i>A.—Fingers of right or left hand</i>		
<i>Index finger</i>		
¹ [27]	Whole	14
¹ [28]	Two phalanges	11
¹ [29]	One phalanx	9
¹ [30]	Guillotine amputation of tip without loss of bone	5
<i>Middle Finger</i>		
¹ [31]	Whole	12
¹ [32]	Two phalanges	9
¹ [33]	One phalanx	7
¹ [34]	Guillotine amputation of tip without loss of bone	4
<i>Ring or little finger</i>		
¹ [35]	Whole	7
¹ [36]	Two phalanges	6
¹ [37]	One phalanx	5
¹ [38]	Guillotine amputation of tip without loss of bone	2
<i>B.—Toes of right or left foot</i>		
<i>Great toe</i>		
¹ [39]	Through metatarso-phalangeal joint	14
¹ [40]	Part, with some loss of bone	3
<i>Any other toe</i>		
¹ [41]	Through metatarso-phalangeal joint	3
¹ [42]	Part, with some loss of bone	1
<i>Two toes of one foot, excluding great toe</i>		
¹ [43]	Through metatarso-phalangeal joint	5
¹ [44]	Part, with some loss of bone	2
<i>Three toes of one foot, excluding great toe</i>		
¹ [45]	Through metatarso-phalangeal joint	6
¹ [46]	Part, with some loss of bone	3

1. Serial Nos. 7 to 54 renumbered as serial Nos. 1 to 48 respectively by Act 64 of 1962, s. 9 (w.e.f. 1-2-1963).

Serial No.	Description of injury	Percentage of loss of earning capacity
<i>Four toes of one foot, excluding great toe</i>		
¹ [47]	Through metatarso-phalangeal joint	9
¹ [48]	Part, with some loss of bone	3.]

²[NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.]

1. Serial Nos. 7 to 54 renumbered as serial Nos. 1 to 48 respectively by Act 64 of 1962, s. 9 (w.e.f.1-2-1963).
2. Ins. by Act 58 of 1960, s. 3 and Sch. II.

SCHEDULE II

[See ¹[section 2 (I) (dd)]]

LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF ¹[SECTION 2 (I) (dd)], 'ARE INCLUDED IN THE DEFINITION OF ²[EMPLOYEES]

The following persons are employee's within the meaning of ¹[section 2 (I) (dd)] and subject to the provisions of that section, that is to say, any person who is—

³[⁴(i) ⁵[employed in railways], in connection with the operation ⁶[repair or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or

(ii) employed, ⁷***, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948 (63 of 1948) is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made ⁸[whether or not employment in any such work is within such premises or precincts], and steam, water or other mechanical power or electrical power is used; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any 'article or part of an article in any premises ⁹***, ¹⁰***

⁷[*Explanation.*—for the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an 'article shall be deemed to be employed within such premises or precincts; or]

(iv) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(v) employed, in any mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952), in any mining operation or in any kind of work, ¹¹***, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(vi) employed as the master or as a seaman of—

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

¹²* * * * *

(c) any sea-going ship not included in sub-clause (a) ¹³*** provided with sufficient area for navigation under sails alone; or

1. Subs. by Act 45 of 2009, s. 10, for "section 2 (I) (n)" (w.e.f. 18-1-2010).

2. Subs. by s. 5, *ibid.*, for "workmen" (w.e.f. 18-1-2010).

3. Subs. by Act 15 of 1933, s. 21, for clauses (i) to (xiii).

4. Subs. by Act 8 of 1959, s. 18, for clauses (i) to (ix) (w.e.f. 1-6-1959).

5. Subs. by Act 45 of 2009, s. 10, for "employed, otherwise than in a clerical capacity or on a railway" (w.e.f. 18-1-2010).

6. Ins. by Act 30 of 1995, s. 15 (w.e.f. 15-9-1995).

7. The words "otherwise than in a clerical capacity" omitted by Act 45 of 2010, s. 10 (w.e.f. 18-1-2010).

8. Ins. by Act 64 of 1962, s. 10 (w.e.f. 1-2-1963).

9. The words "wherein or within the precincts whereof twenty or more persons are so employed" omitted by Act 45 of 2009, s. 10 (w.e.f. 18-1-2010).

10. The word "or" omitted by Act 64 of 1962, s. 10 (w.e.f. 1-2-1963).

11. The word "other than clerical work" omitted by Act 45 of 2009, s. 10 (w.e.f. 18-1-2010).

12. Clause (b) omitted by s. 10, *ibid.* (w.e.f. 18-1-2010).

13. The words, brackets and letter "or sub-clause (b)" omitted by s. 10, *ibid.* (w.e.f. 18-1-2010).

(vii) employed for the purpose of—

(a) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to ¹[(the Ports Act, 1908 (5 of 1908) or the Major Port Trusts Act, 1963 (38 of 1963)], of goods which have been discharged from or are to be loaded into any vessel; or

(b) warping a ship through the lock; or

(c) mooring and unmooring ships at harbour wall berths or in pier; or

(d) removing or replacing dry dock caissons when vessels are entering or leaving dry docks;
or

(e) the docking or undocking of any vessel during an emergency; or

(f) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or

(g) any work on jolly-boats for bringing a ship's line to the wharf; or

(viii) employed in the construction, maintenance, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or

(b) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or

(c) any road, bridge, tunnel or canal; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships, or

(ix) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same;
or

(x) employed, ^{2***}, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer; or

(xi) employed in the service of any fire brigade; or

(xii) employed upon a railway as defined in ³[clause (31) of section 2 and sub-section (1) of section 197 of the Railways Act, 1890 (9 of 1890)], either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service ⁴[or as a telegraphist or as a postal or railway Signaller], or employed in any occupation ordinarily involving-outdoor work in the Indian Posts and Telegraphs Department; or

(xiv) employed, ^{5***}, in connection with operations for winning natural petroleum or natural gas;
or

1. Subs. by Act 30 of 1995, s. 15 for certain words (w.e.f.15-9-95).

2. The words "otherwise than in a clerical capacity" omitted by Act 45 of 2009, s. 10 (w.e.f.18-1-2010).

3. Subs. by Act 30 of 1995, s. 15, for certain words (w.e.f.15-9-1995).

4. Ins. by Act 8 of 1959, s. 18 (w.e.f.1-6-1959).

5. The words "otherwise than in a clerical capacity" omitted by Act 45 of 2009, s. 10 (w.e.f.18-1-2010).

- (xv) employed in any occupation involving blasting operation; or
- (xvi) employed in the making of any excavation ^{1***} or explosives have been used, or whose depth from its highest to its lowest point exceeds ²[twelve] feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- ³[(xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or]
- ⁴[(xix) employed, ^{5***}, in the generating, transforming, transmitting or distribution of electrical energy or in generation or supply of gas; or]
- (xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927 (17 of 1927); or
- (xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
- (xxii) employed in the training, keeping or working of elephants or wild animals; or
- ⁶[(xxiii) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires; or]
- (xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or]
- ⁷[(xxv) employed as a diver; ¹[or]
- (xxvi) employed in the handling or transport of goods in, or within the precincts of,—
- (a) any warehouse or other place in which goods are stored, ^{8***}; or
- (b) any market ^{9***}; or
- (xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radio-active substances;] ¹⁰[or]
- ¹⁰(xxviii) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934 (22 of 1934); or
- (xxix) ⁴[employed in horticultural operations, forestry, bee-keeping or farming” by tractors or other contrivances driven by steam or other mechanical power or by electricity; or
- (xxx) employed, ^{11***}, in the construction, working, repair or maintenance of a tubewell; or
- (xxxi) employed in the maintenance, repair or renewal of electric fittings in any building; or
- (xxxii) employed in a circus.]

1. The words “in which on any one day of the preceding twelve months more than twenty-five persons have been employed” omitted by Act 45 of 2009, s. 10 (w.e.f. 18-1-2010).

2. Subs. by Act 8 of 1959, s. 18, for “twenty” (w.e.f. 1-6-1959).

3. Subs. by Act 45 of 2009, s. 10 for item (xviii) (w.e.f. 18-1-2010).

4. Subs. by Act 30 of 1995, s. 15, for item (xix) and “employed in farming” (w.e.f. 15-9-1995).

5. The words “otherwise than in a clerical capacity” omitted by Act 45 of 2009, s. 10 (w.e.f. 18-1-2010).

6. Ins. by Act 9 of 1938, s. 11.

7. Original cl. (xxiii) renumbered (xxv) by s. 11, *ibid.*

8. The words “and in which on any one day of the preceding twelve months ten or more persons have been so employed” omitted by Act 45 of 2009, s. 10 (w.e.f. 18-1-2010).

9. The words “in which on any one day of the preceding twelve months fifty or more persons have been so employed” omitted by s. 10, *ibid.* (w.e.f. 18-1-2010).

10. Ins. by Act 8 of 1959, s. 18 (w.e.f. 1-6-1959).

11. The words “otherwise than in a clerical capacity” omitted by Act 45 of 2009, s. 10 (w.e.f. 18-1-2010).

- ¹[(xxxiii) employed as watchman in any factory or establishment; or
 (xxxiv) employed in any operation in the sea for catching fish; or
 (xxxv) employed in any employment which requires handling of snakes for the purpose of extraction of venom or for the purpose of looking after snakes or handling any other poisonous animal or insect; or
 (xxxvi) employed in handling animals like horses, mules and bulls; or
 (xxxvii) employed for the purpose of loading or unloading an mechanically propelled vehicle or in the handling or transport of goods which have been loaded in such vehicles; or
 (xxxviii) employed in cleaning of sewer lines or septic tanks within the limits of a local authority; or
 (xxxix) employed on surveys and investigation, exploration or gauge or discharge observation of rivers including drilling operations, hydrological observations and flood forecasting activities ground water surveys and exploration; or
 (xl) employed in cleaning of jungles or reclaiming land or ponds ^{2***}; or
 (xli) employed in cultivation of land or rearing and maintenance of live-stock or forest operations of fishing ^{2***}; or
 (xlii) employed in installation, maintenance or repair of pumping equipment used for lifting of water from wells, tubewells, ponds, lakes, streams and the like; or
 (xliii) employed in the construction, boring or deepening of an open well or dug well, bore well, bore-cum-dug well, filterpoint and the like; or
 (xliv) employed in spraying and dusting of insecticides or pesticides in agricultural operations or plantations; or
 (xlv) employed in mechanised harvesting and threshing operations; or
 (xlvi) employed in working or repair or maintenance of bulldozers, tractors, power tillers and the like; or
 (xlvii) employed as artist for drawing pictures on advertisement boards at a height of 3.66 metres or more from the ground level; or
 (xlviii) employed in any newspaper establishment as defined in the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and engaged in outdoor work].

Explanation.—In this Schedule, “the preceding twelve months” relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.]

1. Ins. by Act 30 of 1995, s. 15 (w.e.f.15-9-1995).

2. The words “in which on any one day of the preceding twelve months more than twenty-five persons have been employed” omitted by Act 45 of 2009, s. 10 (w.e.f.18-1-2010).

¹[SCHEDULE III

(See section 3)

LIST OF OCCUPATIONAL DISEASES

Serial No	Occupational disease	Employment
(1)	(2)	(3)
PART A		
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 relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; (d) other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air.	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds.	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes.	All work involving exposure to the risk concerned.
5.	Poisoning by organophosphorus compounds.	All work involving exposure to the risk concerned.
PART B		
1.	Diseases caused by phosphorus or its toxic compounds.	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds.	All work involving exposure to the risk concerned.
3.	Diseases caused by benzene or its toxic homologues.	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds.	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations;	All work involving exposure to the action of radioactive substances or ionising radiations.

1. Subs. by Act 22 of 1984, s. 6 for Sch. (w.e.f.1-7-1984).

Serial No	Occupational disease	Employment
(1)	(2)	(3)
8.	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	All work involving exposure to the risk concerned.
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by carbon disulphide.	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations.	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds.	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items.	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise.	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds.	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process.	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds.	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerine or other nitroacid esters.	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide.	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.

Serial No	Occupational disease	Employment
(1)	(2)	(3)
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.	All work involving exposure to the risk concerned.
¹ [25.	Snow blindness in snow bound areas.	All work involving exposure to the risk concerned.
26.	Disease due to effect of heat in extreme hot climate.	All work involving exposure to the risk concerned.
27.	Disease due to effect of cold in extreme cold climate.	All work involving exposure to the risk concerned.]
PART C		
1.	Pneumoconioses caused by sclerogenic mineral dust (silicoses, anthraoo-silicosis, asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2.	Bagassosis	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssionsis),	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveelitis caused by the inhalation of organic dusts.	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals.	All work involving exposure to the risk concerned.

1. Ins. 64 Act 30 of 1995, of 16 (w.e.f. 15-9-95).

¹[SCHEDULE IV
(See section 4)

FACTORS FOR WORKING OUT LUMP SUM EQUIVALENT OF COMPENSATION AMOUNT IN CASE OF
PERMANENT DISABLEMENT AND DEATH.

Completed years of age on the last birthday of the employee immediately preceding the date on which the compensation fell due	1	Factors 2
Not more than	16....	228.54
	17....	227.49
	18....	226.38
	19....	225.22
	20....	224.00
	21....	222.71
	22....	221.37
	23....	219.95
	24....	218.47
	25....	216.91
	26....	215.28
	27....	213.57
not more than 28....		211.79
	29....	209.92
	30....	207.98
	31....	205.95
	32....	203.85
	33....	201.66
	34....	199.40
	35....	197.06
	36....	194.64
	37....	192.14
	38....	189.56
	39....	186.90
	40....	184.17

2. Subs. by Act 22 of 1984, s. 7, for Sch. IV (w.e.f. 1-7-1984).

Completed years of age on the last birthday of the employee immediately preceding the date on which the compensation fell due	Factors	
	1	2
41....		181.37
42....		178.49
43....		175.54
44....		172.52
45....		169.44
46....		166.29
47....		163.07
48....		159.80
49...		156.47
50...		153.09
51...		149.67
52...		146.20
53...		142.68
54...		139.13
55...		135.56
56...		131.95
57...		128.33
58...		124.70
59...		121.05
60.....		117.41
61.....		113.77
62.....		110.14
63.....		106.52
64.....		102.93
65 or more....		99.37.]

*The Orissa Rules under The Workmen's Compensation Act, 1923

No. 7964-Com.-D/3.12.1938 -In exercise of the powers conferred on them by Section 32 of the Workmen's Compensation Act, VIII of 1923, the Government of Orissa are pleased to make the following rules in supersession of all previous rules on the subject made by the Governor of Bihar and Orissa, Madras and the Central Province and Berar and which have been in force in the Province of Orissa.

CHAPTER - I

Fees

1. The following fees shall be payable in respect of proceedings under this Act-

- I. Applications for compensation-
 - (a) Where compensation is claimed in the form of recurring payments; ... Fifty paise
 - (b) Where compensation is claimed in the form of lump sum ... One rupee where the sum does not exceed Rs. 500 plus one rupee for each additional sum of Rs. 500 or fractional thereof.
- II. Applications for commutation
 - (a) By agreement between parties ... Fifty paise
 - (b) In all other cases ... One rupee
- III. Application for the deposit of compensation
 - (a) Under Section 8 (1) of the Act ... Nill
 - (b) Under Section 8 (2) of the Act ... Fifty paise

(In respect of each person to whom compensation is payable)
- IV. Applications for distribution by dependents for each dependant ... One rupee
- V. Application for review-
 - (a) Where the review claimed is the continuance, increase, decrease, or ending of half monthly payment ... Fifty paise
 - (b) Where the half-monthly payments are sought to be converted into a lump sum... Two rupees
 - (c) In all other cases ... One rupee

VI.	Applications for the registration of agreements	
(a)	Where the application of the memorandum of agreement is signed by both parties...	Nil
(b)	In all other cases	Fifty paise
VII.	Applications to summon witness-	
(a)	For the first witness mentioned in application	Fifty paise
(b)	For every subsequent witness	Twenty-five paise
VIII.	Application for the indemnification	Three rupees
IX.	Application for the recovery of compensation-	
(a)	Under an order already passed by the Commissioner	Fifty paise
(b)	In all cases	The same fee as is payable on a similar application for compensation
X.	All applications not otherwise provided for ...	Fifty paise

2. In the case of any applications falling under head X, the Commissioner may if he thinks fit, permit the application to be made with fee.

3. If in any case the Commissioner considers that he ought to pass orders granting relief of a different kind or to a different extent from that claimed by the applicant, and if the fee which would have been payable by the applicant on an application for the relief which the Commissioner considers to be is due is greater than the fee which has actually been paid, the Commissioner may require the applicant to deposit fees to the extent of the difference. The order shall not be executed until the difference is paid.

CHAPTER II

Costs

4. Where the Commissioner directs that any costs shall not follow the event, he shall state his reasons in writing.

5. The costs which may be awarded shall include -

- (a) the charges necessarily incurred on account of Court-fees;
- (b) the charges necessarily insured on subsistence money to witness; and

(c) pleader's fees on the scale prescribed in the following rule.

6. In any proceeding involving an application for compensation in the form of a lump sum an application for commutation or an application for indemnification the pleader's fee allowed shall be Rs.10 subject by special order of the Commissioner to diminution to a sum not less than Rs.5 and to increase to a sum not more than Rs-50 for each such proceedings. In all other applications the pleader's fee allowed shall be Rs.9 subject to increase by special order to a sum not exceeding Rs. 20.

7. When a party engages more pleaders than one to conduct or defend a case he shall be allowed one set of costs only.

8. If several defendants have substantially one defence to make not more than one pleader's fee should be allowed, and such fee shall be apportioned by the Court among the several defendants as it may think fit.

9. If several defendants have separate and distinct defences, they may be allowed separate costs whether they are represented by separate pleaders or not.

CHAPTER III

Statement regarding fatal accidents

10. (1) The notice to be sent by a Commissioner under Sub-section (1) of Section 10-A of the Act shall in Form I and shall be accompanied by copy of Form II.

(2) The statement to be submitted by an employer under Section 10-A shall be in Form II.

FORM I

Whereas I have received information that (1) a workman employed by you in (2) has died as the result on an accident arising out of and in the course of employment. I hereby require you in accordance with Section 10-A of the Workmen's Compensation Act, 1923 to submit to me within 30 days of the receipt of this notice the enclosed form with the particulars required in paragraphs 1 and 2 and the particulars required in either paragraph 3 or paragraph 4 duly filled in. In the event of your admitting liability to pay compensation, the necessary deposits must under Section 10-A (2) of the Act, be made within 30 days of the receipt to this notice.

..... Commissioner
Workmen's Compensation.

FORM II

1. In reply to your notice, dated the.....20..... which was received by me on the.....20..... it is submitted that (1)residing atworkmen over/under 15 years of age and employed in (2) met with an accident on the..... 20.....as a result of which died on the20..... The monthly wages of the deceased amounted to Rs.....

2. The circumstances in which the deceased met his death were as follows :

3. I admit liability to pay as compensation, on account of the deceased's death amount of Rs..... was/will be deposited with you on/before the20.....

4. I disclaim liability to pay compensation on account of the deceased's death on the following grounds :

.....
.....
.....
..... Employer.

(1) Insert name of workmen.

(2) Insert name of establishment.

CHAPTER IV

Notice book under Section 10 (3)

11. (1) A notice book shall be maintained under Sub-section (3) of Section 10 of the Act by employers who employ 100 or more workmen in railway workshops.

FORM III

Notice Book of Accidents

(To be filled up by or on behalf of workmen)

Date and time of accident.....

Date and time of notice.....

Name of person injured.....

Address.....

Cause of injury.....

Signature or thumb-impression of person giving notice.

(To be filled up by the employer or his agent)

Rate of wages.....

Place of accident.....

Nature of injuries.....

Name of eye-witness.....

Note of circumstances.....

[CHAPTER V]

Prescribing abstract of the Act under Act to be displayed by the employer under Sec. 30 (O)

12. The abstracts of the Act to be displayed by the employer under Section 32(0) shall be displayed in English and in a language understood by the majority of the persons employed, in Form IV-

FORM IV

1. Section 2 (1)(d) -"dependent" means any of the following relative of a deceased workmen, namely :

- (i) a widow, a minor legitimate son and unmarried legitimate daughter, or a widowed mother and
- (ii) if wholly dependent on the earnings of the workman at the time of his death a son or a daughter who has attained the age of 18 years and who is infirm;
- (jii) if wholly or in part dependent on the earnings of the workman at the time of his death-
 - (a) widower,
 - (b) a parent other than a widowed mother,
 - (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate if married and a minor or if widowed and a minor,

1. Inserted vide L.E. & H. Deptt. Notfn.No- 33-D/3.1.1966.

- (d) a minor brother or an unmarried sister or a widowed sister if a minor,
- (e) a widowed daughter-in-law,
- (f) a minor child or a pre-deceased son;
- (g) a minor child of a pre-deceased where no parent of the child is alive, or
- (h) a paternal grand parent if no parent of the workman is alive;
- (i) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time, provided that every injury specified in Part II of Schedule I shall be deemed to result; in permanent partial disablement;
- (j) "total disablement" means such disablement, whether of a temporary or permanent nature as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement :

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of Schedule I or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity as specified in said part against those injuries amounts to one hundred per cent or more;

- (k) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purpose of the employer's trade or business) who is-
 - (i) a railway servant as defined in Section 3 of the Indian Railways Act, IX of 1890, not permanently employed in any administrative, district or subdivisional of a railway and not employed in any such capacity as is specified in Schedule II; or
 - (ii) employed on monthly wages not exceeding five hundred rupees, in any such capacity as is specified in Schedule II, whether the contract or employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to a workman who has been injured shall, where the workman is dead include a reference to his dependants or any of them.

SCHEDULE II

[See Section 2 (1)(n)]

LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF SECTION 2(1)(n) ARE INCLUDED IN THE DEFINITION OF WORKMEN

The following persons are workmen within the meaning of Section 2(1)(n) and subject to the provisions of that Section, that is to say any person who is-

- (i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or
- (ii) employed, otherwise than in a clerical capacity, in any premises wherein or within the precincts whereof a manufacturing process as defined in Clause (k) of Section 2 of the Factories Act, 1948 is being carried on, or in any kind of work whatever incidental to or connected with any such manufacturing process or with the article made (whether or not employment in any such work is within such premises or precincts) and steam, water or other mechanical power or electrical power is used; or
- (iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adopting for use, transport or any article or part of an article in any premises wherein or within the precincts whereof twenty or more persons are so employed;

Explanation - For the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adopting for use, transport or sale any article or part of an article shall be deemed to be employed within such premises or precincts; or

- (iv) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or
- (v) employed, in any mine as defined in Clause (i) of Section 2 of the Mines Act, 1952, in any mining operation or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or
- (vi) employed as the master or as a seaman of-
 - (a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or
 - (b) any ship not included in Sub-clause (a) of twenty five tons net tonnage or over; or
 - (c) any sea-going ship not included in Sub-clause (a) or Sub-clause (b) provided with sufficient area for navigation under sails along; or
- (vii) employed for the purpose of-

- (a) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits or any port subject to the Indian Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessels; or
 - (b) warping a ship through the lack; or
 - (c) mooring and unmooring ships at harbour wall berths or in pier; or
 - (d) removing or replacing dry dock caissons when vessels are entering or leaving dry docks; or
 - (e) the docking or undocking of any vessel during an emergency; or
 - (f) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of fag wags, maintaining lifebuoys upto or any other maintenance work of a like nature; or
 - (g) any work or jolly-boats for bringing a ship's line to the wharf; or
- (viii) employed in the construction, maintenance, repair or demolition of-
- (a) any building which is designed to be or is or has been more than one story in height above the ground or twelve feet or more from the ground level to the apex of the roof; or
 - (b) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or
 - (c) any road, bridge, tunnel or canal; or
 - (d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or
- (ix) employed in sheeting up maintaining, repairing or taking down any telegraphs or telephone line or Post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or
- (x) employed otherwise than in a clerical capacity in the construction, working, repair or demolition of any aerial ropeway, canal, pipeline or sewer;
- (xi) employed in the service of any fire brigade; or
- (xii) employed upon a railway as defined in Clause (4) of Section 3 and Sub-section (1) of Section 148 of the Indian Railways Act, 1890, either directly or although a sub-contractor, by a person fulfilling a contract with the railway administration; or
- (xiii) employed as an Inspector, mail guard, sorter or van peon in the Railway Mail Service (or as a telegraphist or as a postal or railway signaler) or employed in an occupation ordinarily involving outdoor work in the Indian Posts and Telegraph Department; or
- (xiv) employed otherwise than in a clerical capacity in connection with operations for winning natural petroleum or natural gas; or

- (xv) employed in any occupation involving blasting operations; or
- (xvi) employed in the making of any execution in which or any one day of the preceding twelve months more than (twenty-five) persons have been employed or explosives have been used or whose depth from its highest to its lowest point exceeds (twelve) feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- (xviii) employed otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing (cardamom) cinchona, coffee, rubber or tea and on which on any one day in the preceding twelve months, twenty-five or more persons have been so employed; or
- (xix) employed otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or
- (xx) employed in a light house as defined in Clause (d) of Section 2 of the Indian Lighthouse Act, 1972; or
- (xxi) employed in producing cinematography pictures intended for public exhibition or in exhibiting such pictures; or
- (xxii) employed in the training, keeping or working of elephants or wild animals;
- (xxiii) employed in the tapping of palm-trees or the felling or logging of trees or the transport of timber by inland waters or the control or extinguishing of forest fires; or
- (xxiv) employed in operation for the catching or hunting of elephants or wild animals; or
- (xxv) employed as driver; or
- (xxvi) employed in the handling or transport of goods, or within the precincts of-
 - (a) any warehouse or other places in which goods are stored and in which on any one day of the preceding twelve months ten or more persons have so employed; or
 - (b) any market in which any one day of preceding twelve months (fifty) or more persons have been so employed; or
- (xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contract with radio-active substances; or
- (xxviii) employed in or in connection with the construction erection, dismantling operation or maintenance of an aircraft as defined in Section 2 of the Indian Aircraft Act, 1934; or
- (xxix) employed in farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or
- (xxx) employed otherwise than in a clerical capacity, in the Construction, working, repair or maintenance of a tubewell; or
- (xxxii) employed in the maintenance, repair or renewal of electric fittings in any building; or
- (xxxiii) employed in a circus.

Explanation - In this Schedule the preceding twelve months' relates in any particular case to the twelve month ending with the day on which the accident in such case occurred.

3. Section 3(1) - Employer's liability for compensation -

If personal injury is caused to a workman by accident arising out of and in the course of his employment, the employer shall be liable to pay compensation in accordance with the provisions of this Chapter :

Provided that the employer shall not be so liable-

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding three days;
- (b) in respect of any injury not resulting in death caused by an accident which is directly attributable to -
 - (i) the workman have been at the time thereof under the influence of drink or drugs; or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing safety of workman.

4. Section 4 (1) - Subject to the provisions of this Act, the amount of compensation shall be as follows, namely :

- (a) where death results from the injury and deceased workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV, the amount shown against such limits in the second column thereof;
- (b) where permanent total disablement results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV, the amount shown against such limits in the column thereof;
- (c) where permanent partial disablement results from the injury-
 - (i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
 - (ii) in the case of an injury not specified in Schedule I such percentage of the compensation payable in the case of permanent total disablement, as is proportionate to the loss of earning capacity permanently caused by the injury.

Explanation - Where more injuries than one are caused by the same accident the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement has resulted from the injuries;

- (d) where temporary disablement, whether total or partial, result from the injury and the injured workman has been in receipt of monthly

wages falling within limits shown in the first column of Schedule IV-A half monthly payment of the sum shown against such limits in the fourth column thereof payable on the sixteenth day-

- (i) from the date of the 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 the disablement, where such disablement lasts for a period of less than twenty-eight days, and thereafter half-monthly during the disablement or during a period of five years, which ever period is shorter provided that -
 - (a) there shall be deducted from any lump sum of half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment as the case may be; and
 - (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

Explanation - Any payment or allowance, which the workman has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of Clause (a) of the proviso.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

SCHEDULE I

[See Sections 2 (1) & (4)]

PART I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT

Sl. No.	Description of injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Loss of both hands or amputation at higher sites	... 100
2.	Loss of hand and a foot	... 100
3.	Double amputation-through leg or thigh or amputation through leg or thigh on one side and loss of other foot	... 100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	... 100
5.	Very severe facial disfigurement	... 100
6.	Absolute deafness	... 100

Sl. No.	Description of injury	Percentage of loss of earning capacity
(1)	(2)	(3)

PART II

**LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL
DISABLEMENT**

Amputation cases, upper limbs (either arm)

1.	Amputation through shoulder joint	...	90
2.	Amputation below shoulder with stump less than 8" from upto acromion.	...	80
3.	Amputation from" from tip of acromion to less than 4.5" below tip of olecranon.	...	70
4.	Loss of a hand or of the thumb and four fingers of one hands or amputation from 4.5" below tip of olecranon.	...	60
5.	Loss of thumb	...	30
6.	Loss of thumb and its metacarpal bone	...	40
7.	Loss of four fingers of one hand	...	50
8.	Loss of three fingers of hand	...	30
9.	Loss of two fingers of one hand	...	20
10.	Loss of terminal phalanx of thumb	...	20

Amputation cases - Lower limbs

11.	Amputation of both feet resulting in end- bearing stumps	...	90
12.	Amputation through both feet proximal to the metatarso-phalangeal joint	...	80
13.	Loss of all toes of both feet through the metatarsoso- phalangeal joint	...	40
14.	Loss of all toes of both feet proximal inter-phalangeal joint	...	30
15.	Loss of all toes of both feet distal to the proximal interphalangeal joint	...	20
16.	Amputation at hip	...	90
17.	Amputation below hip with stump not exceeding 5" in length measured from tip of great trenchanter	...	80
18.	Amputation below hip with stump exceeding 5" in length measured from tip of great trenchanter, but not beyond middle high.	...	70
19.	Amputation below middle thigh to 3.5" below knee	...	60
20.	Amputation below knee with stump exceeding 3.5" but not exceeding 5".	...	50
21.	Amputation below knee with stump exceeding 5"	...	40
22.	Amputation of one foot resulting in end-bearing	...	30

Sl. No.	Description of injury	Percentage of loss of earning capacity
(1)	(2)	(3)
23.	Amputation through one foot proximal to the metatarsophalangeal joint	... 30
24.	Loss of all toes of one foot through the metatarsophalangeal joint.	... 20
Other Injuries		
25.	Loss of one eye, without complications, the other being normal.	... 40
26.	Loss of vision of one eye, without complications, or disfigurement of eye-ball, the other being normal	... 30
Loss of Fingers of right or left hand-Index finger		
27.	Whole	... 14
28.	Two phalanges	... 11
29.	One phalanx	... 9
30.	Guillotion amputation of tip without loss of bone	... 5
Middle finger		
31.	Whole	... 12
32.	Two phalanges	... 9
33.	One phalanx	... 7
34.	Guillotine amputation of tip without loss of bone	... 4
Ring or little finger		
35.	Whole	... 7
36.	Two phalanges	... 6
37.	One phalanx	... 5
38.	Guillotion amputation of tip without loss of bone	... 2
B. Toes of right and left foot - Great toe		
39.	Through metatarso phalangeal joint	... 14
40.	Part, with some loss of bone	... 3
Any other toe		
41.	Through metatarso phalangeal joint	... 3
42.	Part, with some loss of bone	... 1
Two toes of one foot, excluding great toe		
43.	Through metatarsophalangeal joint	... 5
44.	Part, with some loss of bone	... 2
Through toes of one foot, excluding great toe		
45.	Through metatarso phalangeal joint	... 6
46.	Part, with some loss of bone	... 3

Four toes of one foot excluding great toe

47. Through metatarso phalangeal joint ... 9
 48. Part, with some loss of bone ... 3

¹[NOTE - Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member].

²[SCHEDULE II]

[See Section 4]

COMPENSATION PAYABLE IN CERTAIN CASES

Amount of compensation for -

Monthly wages of the workmen injured	Death	Permanent total disablement	Half monthly payment as compensation for temporary disablement	
(1)	(2)	(3)	(4)	
More than- Rs.	But not more than Rs.	Rs.	Rs.	Rs. P.
0	10	1,000	1400	Half his monthly wages
10	13	1,100	1,540	Ditto
13	18	1,200	1,680	6-50
18	21	1,260	1,764	7-00
21	24	1,440	2,016	8-00
24	27	1,620	2,268	8-50
27	30	1,800	2,530	9-50
30	35	2,100	2,940	9-50
35	40	2,400	3,360	10-00
40	45	2,700	3,780	13-00
45	50	3,000	4,200	13-00
50	60	3,600	5,040	18-50
60	70	4,200	5,880	18-50
70	80	4,800	6,720	20-00
80	100	6,000	8,400	26-00
100	150	7,000	9,800	37-50
150	200	7,000	9,800	52-50
200	300	8,000	11,200	60-00
300	400	9,000	12,600	75-00
400	—	10,000	14,000	87-50]

1. Added by Act 58 of 1960.
2. Substituted by Act 65 of 1976.

5. Section 3(2) -Occupational Diseases for which compensation is payable -

If a workman employed in any employment specified in Part A of Schedule III contracts and disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment or if a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment :

Provided that if it is proved

(a) that a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this Sub-section for that employment; and

(b) that the disease has arisen out of and in the course of the employment; the contracting of such disease shall be deemed to be an injury by accident within, the meaning of this Section :

Provided further that if it is proved that a workman who having served under any employer in any employment specified in Part B of Schedule III or who having served under any one or more employers in any employment specified in Part C of Schedule III for a continuous period specified under this Sub-section for the employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this Section.

(2-A) If a workman employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this Section and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.

SCHEDULE III
[See Section 3]
LIST OF OCCUPATIONAL DISEASES

Occupational disease (1)	Employment (2)
PART A	
Anthrax	Any employment- (a) involving the handling of wool, hair, bristles or animal carcasses, or parts of such carcasses, including hides, hoofs and horns, or (b) in connection with animal infected with anthrax; or (c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelae ...	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl ...	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes ...	Any process involving the exposure to nitrous fumes.
[Poisoning by organic phosphorous insecticides ...	Any process involving the use or handling or exposure to the fumes, dust or vapour containing any of the organic phosphorous insecticides.
PART B	
Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra ethyl;...	Any process involving the handling or (use of lead ore or lead) or any of its preparation or compounds except lead tetra ethyl.
Poisoning by phosphorous or its compounds, or its sequelae...	Any process involving liberation of phosphorous or use or handling of phosphorus or its preparation or compounds.

Occupational disease (1)	Employment (2)
Poisoning by mercury, its amalgams and compounds, or its sequelae...	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene, or its homologous their amidol and nitro-derivatives or its sequelae...	Any process involving the manufacture, liberation, or use of benzene, benzene homologous and their amidol and introderivatives.
Chrome ulceration or its sequelae...	Any process involving the chromic acid or bichromate of ammonium, potassium or sodium or their preparation (or the manufacture of bichromate).
Poisoning by arsenic or its compounds, or its sequelae	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to- (a) Radium and other radio active substances;	Any process involving exposure to the action of radium, radioactive substances or X-rays.
(b) X-ray ... Primary epitheliomatous cancer of the skin ...	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin or the compounds, products or residues of these substances
Poisoning by halogenated hydro-carbons of the aliphatic series and their halogen derivatives.	Any process involving the manufacture, (liberation) and use of hydrocarbons of the aliphatic series and their halogen derivatives.
Poisoning by carbon disulphide or its sequelae	Any employment in - (a) the manufacture of artificial silk disulphide; or (b) the manufacture of artificial silk viscose process; or

Occupational disease (1)	Employment (2)
	<ul style="list-style-type: none"> (c) rubber industry; or (d) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.
Occupational cataract due to infra-radiations	Any manufacturing process involving exposure to glare from molten material or to any other sources of infra red radiations
Telegraphist's Gramp...	Any employment involving the use to telegraphic instruments.
Poisoning by manganese or a compound of manganese or its sequelae.	Any process involving the use of or handling of or exposure to the fumes, dust or vapour of manganese or a compound of manganese or a substance containing manganese.
PART C	
Silicosis ...	Any employment involving exposure to the inhalation of dust containing silica.
Coal Mine's Pneumoco-coniosis ...	Any employment in coal mining
Asbestosis ...	Any employment in- <ul style="list-style-type: none"> (1) the production of- <ul style="list-style-type: none"> (i) fibre cement materials; or (ii) asbestos mill board; or (2) the processing of ores containing asbestos,
Bagassosis...	Any employment in the production of bagasse mill board or other articles from bagasse.

6. Section 9 - Compensation not be assigned, attached and charged-

Save as under this Act, on lump sum or half monthly payment payable under this Act, shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

7. Section 10 - Notice and claim-

(1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or, in case of death, within two years from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of Sub-section (3) are applicable the accident shall be deemed to have occurred on the first of the day during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the workmen to absent himself from work, the period of two years shall be counted from the day the workmen gives notice of the disablement to his employer :

Provided further that if a workman who having been employed in an employment for a continuous period, specified under Sub-section (2) of Section 3 in respect of that employment ceases to be so employed and develops symptoms of occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected; provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim-

- (a) if the claim is preferred in respect of the death of a workman resulting from an accident which occurred in the premises of the employer, or at any place where the workman at the time of the accident which occurred on control of the employer or of any person employed by him and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or
- (b) if the employer or any one of the several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed had knowledge of the accident from any other source at or about the time when it occurred provided further, that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be was due sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened and shall be served on the employer

or upon any one of several employer or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The State Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice book in the prescribed form which shall be read accessible at all reasonable times to any injured workmen employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this Section may be served by delivering it at or sending it by registered post addressed to the residence or any office or place of business of the person on whom it is to be served, or where a notice book is maintained entry in the notice book-

8. Section 12 - Contracting -

(1) Where any person (hereinafter in this Section referred to as the principal, in the course of or for the purpose of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work, any compensation which he would have been liable to pay if that workman had been immediately employed by him and where compensation is claimed from the principal, this Act, shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor (or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this Section shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation) and all questions as to the right to and the amount such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken, or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

9. Section 17 - Contracting out -

Any contract or agreement where made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

10. Section 24 - Appearance of parties -

Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector appointed under Sub-section (1) of Section 8 of the Factories Act, 1948, or under Sub-section (1) of Section 5 of the Mines Act, 1952, or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or with the permission of the Commissioner, by any other person so authorised.



THE WORKMEN'S COMPENSATION RULES, 1924¹

In exercise of the powers conferred by section 32 of the Workmen's Compensation Act, 1923 (8 of 1923), the Governor-General in Council is pleased to make the following rules:—

PRELIMINARY

1. Short title.—These rules may be called the Workmen's Compensation Rules, 1924.

2. Definitions.—In these rules unless there is anything repugnant in the subject or context,—

- (a) the 'Act' means the Workmen's Compensation Act, 1923;
- (b) 'Form' means a form appended to these rules;
- (c) 'section' means a section of the Act.

PART I

REVIEW OF HALF-MONTHLY PAYMENTS AND COMMUTATION THEREOF

3. When application may be made without medical certificate.—Application for review of a half-monthly payment under section 6 may be made without being accompanied by a medical certificate.—

- (a) by the employer on the ground that since the right to compensation was determined the workmen's wages have increased;
- (b) by the workman, on the ground that since the right to compensation was determined his wages have diminished;
- (c) by the workman, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the workmen's condition such as to warrant such cessation;
- (d) either by the employer or by the workman, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means;
- (e) either by the employer or by the workman on the ground that in the determination of compensation there is a mistake or error apparent on the face of the record.

4. Procedure on application for review.—If, on examining an application for review by an employer in which the reduction or discontinuance of half-monthly payments is sought it appears to the Commissioner that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, he may at any time issue an order withholding the half-monthly payments in whole or in part pending his decision on the application.

1. *Vide* Government of India, Department of Industries and Labour, Notification No. L-1182, dated 26th June, 1924.

5. Procedure on application for commutation.—(1) Where application is made to the Commissioner under section 7 for the redemption of a right to receive half-monthly payments by the payment of a lump sum, the Commissioner shall form an estimate of the probable duration of the disablement, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which he estimates that the disablement will continue, less one-half per cent of that total for each month comprised in that period:

Provided that fractions of a rupee included in the sum so computed shall be disregarded.

(2) When, in any case to which sub-rule (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

PART II

DEPOSIT OF COMPENSATION

6. Deposit under section 8 (1).—(1) An employer depositing compensation with the Commissioner under sub-section (1) of section 8, in respect of a workman whose injury has resulted in death shall furnish therewith a statement in Form A, and shall be given a receipt in Form B. In other cases of deposits with the Commissioner under sub-section (1) of section 8, the employer shall furnish a statement in Form AA, and shall be given a receipt in Form B.

(2) If, when depositing compensation in respect of fatal accidents, the employer indicates in the statement referred to in sub-rule (1) that he desires to be made a party to the distribution proceedings, the Commissioner shall before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not a dependant of the deceased workman or, as the case may be, that no one of such persons is a dependant.

(3) The statement of disbursements to be furnished on application by the employer under sub-section (4) of section 8, shall be in Form C.

7. Publication of list of deposits.—The Commissioner shall cause to be displayed, in a prominent position outside his office, an accurate list of the deposits received by him under sub-section (1) of section 8, together with the names and addresses of, the depositors and of the workman in respect of whose death or injury the deposits have been made.

8. Application by dependants for deposit of compensation.—(1) A dependant of a deceased workman may apply to the Commissioner for the issue of an order to deposit compensation in respect of the death of the workman. Such application shall be made in Form C.

(2) If compensation has not been deposited the Commissioner shall dispose of such application in accordance with the provisions of Part V of these rules:

Provided that—

(a) the Commissioner may, at any time before issues are framed, cause notice to be given in such manner as he thinks fit to all or any of the dependants of the deceased workman who have not joined in the

application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf;

- (b) any dependant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not be permitted thereafter to claim that the employer is liable to deposit compensation unless he satisfies the Commissioner that he was prevented by any sufficient cause from appearing when the case was called on for hearing.

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with sub-section (1) of section 8, nothing in sub-rule (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased workman who failed to join the application.

9. Deposit under section 8(2).—An employer depositing compensation in accordance with sub-section (2) of section 8, shall furnish therewith a statement in Form D, and shall be given a receipt in Form E.

10. Investment of money.—Money in the hands of Commissioner may be invested for the benefit of the dependants of deceased workman in Government Securities or Post Office Cash Certificates, or may be deposited in a Post Office Savings Bank.

PART III

REPORTS OF ACCIDENTS

11. Reports of fatal accidents.—The report required by section 10B shall, subject to such rules, if any, as may be made by the State Government, be in Form EE.

12. Right of employer to present memorandum when information received.—(1) Any employer who has received information of an accident may at any time notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Commissioner a memorandum supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memorandum, embodying the results of any investigation or inquiry which has been made into the circumstances or cause of the accident.

(2) A memorandum presented under sub-rule (1) shall, subject to the payment of such fee as may be prescribed, be recorded by the Commissioner.

PART IV

MEDICAL EXAMINATION

13. Workman not to be required to submit to medical examination save in accordance with rules.—A workman who is required by sub-section (1) of section 11 to submit himself for medical examination shall be bound to do so in accordance with the rules contained in this Part and not otherwise.

14. Examination when workman and medical practitioner both on premises.—When such workman is present at the employer's premises, and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present the workman shall submit himself for examination forthwith.

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15. Examination in other cases.—In cases to which rule 14 does not apply, the employer may—

- (a) send the medical practitioner to the place where the workman is residing for the time being in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner, or
- (b) send to the workman an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified:

Provided that—

- (i) the time so specified shall not, save with the express consent of the workman be between the hours of 7 p.m. and 6 a.m. and
- (ii) in cases where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

16. Restriction on number of examinations.—A workman who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident or more than once in any subsequent month.

17. Examination after suspension of right to compensation.—If a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) of section 11 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer, and at a time to be fixed by the employer not being save with the express consent of the workman, more than 72 hours after the workman has so offered himself.

18. Examination of women.—(1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female practitioner.

PART V PROCEDURE

19. Introductory.—Save as otherwise provided in these rules the procedure to be followed by the Commissioner in the disposal of cases under the Act, or these rules and by the parties in such cases shall be regulated in accordance with the rules contained in this part.

20. Application.—(1) Any application of the nature referred to in section 22 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinates authorised by him in this behalf, and, if so sent or presented, shall, unless the Commissioner otherwise directs, be made in duplicate in the appropriate Form, if any, and shall be signed by the applicant.

(2) There shall be appended to every such application a certificate, which shall be signed by the applicant, to the effect that the statement of facts contained in the application is to the best of his knowledge and belief accurate.

21. Production of documents.—(1) When the application for relief is based upon a document, the document shall be appended to the application.

(2) Any other document which any party desires to tender in evidence shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2), as the case may be, shall not, without the sanction of the Commissioner, be admissible in evidence on behalf of the party who should have produced it.

(4) Nothing in this rule applies to any document which is produced for the purpose of cross-examining a witness or is handed to a witness to refresh his memory.

22. Application presented to wrong Commissioner.—(1) If it appears to the Commissioner on receiving application that it should be presented to another Commissioner he shall return it to the applicant after endorsing upon it the date of the presentation and return, the reason for returning it and designation of the Commissioner to whom it should be presented.

(2) If it appears to the Commissioner at any subsequent stage that an application should have been presented to another Commissioner, he shall send the application to the Commissioner empowered to deal with it and shall inform the applicant (and the opposite party, if he has received a copy of the application under rule 26), accordingly.

(3) The Commissioner to whom an application is transferred under sub-rule (2) may continue the proceedings as if the previous proceedings or any part of them had been taken before him, if he is satisfied that the interests of the parties will not thereby be prejudiced.

23. Examination of applicant.—(1) On receiving application of the nature referred to in section 22, the Commissioner may examine the applicant on oath, or may send the application to any officer authorised by the State Government in this behalf and direct such officer to examine the applicant and his witnesses and forward the record thereof to the Commissioner.

(2) The substance of any examination made under sub-rule (1), shall be recorded in the manner provided for the recording of evidence in section 25.

24. Summary dismissal of application.—(1) The Commissioner may, after considering the application and the result of any examination of the applicant under rule 23, summarily dismiss the application, if, for reasons to be recorded, he is of opinion that there are no sufficient grounds for proceeding thereon.

(2) The dismissal of the application under sub-rule (1) shall not of itself preclude the applicant from presenting a fresh application for the settlement of the same matter.

25. Preliminary inquiry into application.—If the application is not dismissed under rule 24, the Commissioner may for reasons to be recorded, call upon the applicant to produce evidence in support of the application before

calling upon any other party, and, if upon considering such evidence the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

26. Notice to opposite party.—If the Commissioner does not dismiss the application under rule 24 or rule 25, he shall send to the party from whom the applicant claims relief (hereinafter referred to as the opposite party) a copy of the application, together with a notice of the date on which he will dispose of the application, and may call upon the parties to produce upon that date any evidence which they may wish to tender.

27. Appearance and examination of opposite party.—(1) The opposite party may, and if so required by the Commissioner, shall, at or before the first hearing or within such time as the Commissioner may permit, file a written statement dealing with the claim, raised in the application, and any such written statement shall form part of the record.

(2) If the opposite party contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim and shall reduce the result of examination to writing.

28. Framing of issues.—(1) After considering any written statement and the result of any examination of the parties, the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those issues which in his opinion concern points of facts and those which concern points of law.

29. Power to postpone trial of issues of fact where issues of law arise.—When issues both of law and of fact arise in the same case, and the Commissioner is of opinion that the case may be disposed of on the issues of law only, he may try those issues first, and for that purpose may, if he thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

30. Diary.—The Commissioner shall maintain under his hand a brief diary of the proceedings on an application.

31. Reasons for postponement to be recorded.—If the Commissioner finds it impossible to dispose of an application at one hearing he shall record the reasons which necessitate a postponement.

32. Judgment.—(1) The Commissioner, in passing orders, shall record concisely a judgment, his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce, his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

33. Summoning of witnesses.—If an application is presented to any party to the proceedings for the citation of witnesses, the Commissioner shall, on payment of the prescribed expenses, and fees, issue summonses for the appearance of such witnesses, unless he considers that their appearance is not necessary for the just decision of the case.

34. Exemption from payment of costs.—If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid, may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs may direct.

35. Right of entry for local inspection.—A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any person likely to be able to give information relevant to the proceedings:

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

36. Procedure in connection with local inspection.—(1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under sub-section (2) of section 10, or the representative of any such person.

(3) Any party, or the representative of any party, may accompany the Commissioner at a local inspection.

(4) The Commissioner, after making a local inspection, shall note briefly in a memorandum any facts observed, and shall show the memorandum to any party who desires to see the same, and, on payment of the prescribed fee, shall supply any party with a copy thereof.

(5) The memorandum shall form part of the record.

37. Power of summary examination.—(1) The Commissioner during a local inspection or at any other time, save at a formal hearing of a case pending before him, may examine summarily any person likely to be able to give information relative to such case, whether such person has been or is to be called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under sub-rule (1).

(3) Statements made by persons examined under sub-rule (1), if reduced to writing, shall not be signed by the person making the statement, nor shall they, except as hereinafter provided, be incorporated in the record or utilized by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under sub-rule (1) makes in evidence any material statement contradicting any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that case direct that the parties be furnished with the relevant part of such statement for the propose of examining or cross-examining the witness.

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(5) Any statements or part of a statement which is furnished to the parties under sub-rule (4) shall be incorporated in the record.

(6) Where a case is settled by agreement between the parties, the Commissioner may incorporate in the record any statement made under sub-rule (1) and may utilise such statement for the purpose of justifying his acceptance of or refusal to accept the agreement reached.

38. Agreement to abide by Commissioner's decision.—(1) If a party states in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall inquire whether the other party is willing to abide by his decision.

(2) If the other party agrees to abide by the Commissioner's decision, the fact of his agreement shall be recorded in writing and signed by him.

(3) If the other party does not agree to abide by the Commissioner's decision, the first party shall not remain under an obligation so to abide.

39. Procedure where indemnity claimed under section 12(2).—(1) Where the opposite party claims that if compensation is recovered against him he will be entitled under sub-section (2) of section 12, to be indemnified by a person not being a party to the case, he shall, when first called upon answer the application, present a notice of such claim to the Commissioner accompanied by the prescribed fee, and the Commissioner shall thereupon issue notice to such person in Form J.

(2) If any person served with a notice under sub-section (1) desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings; in default of so appearing he shall be deemed to admit the validity of any award made against the opposite party and to admit his own liability to indemnify the opposite party for any compensation recovered from him.

Provided that, if any person so served appear subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall offer giving notice to the aforesaid opposite party, hear such person and may set aside or vary any award made against such person under this rule and upon such terms as may be just.

(3) If any person served with a notice under sub-rule (1) whether or not he desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by a person standing to him in the relation of a contractor from whom the workman could have recovered compensation, he shall on or before the date fixed in the notice under sub-rule (1) present a notice of such claim to the Commissioner accompanied by the prescribed fee and the Commissioners shall thereupon issue notice to such person in Form JJ.

(4) If any person served with a notice under sub-rule (3) desires to contest the applicant's claim for compensation, or the claim under sub-rule (3) to be indemnified, he shall appear before the Commissioner on the date fixed in the notice in Form JJ or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings in default of

so appearing he shall be deemed to admit the validity of any award made against the original opposite party or the person served with a notice under sub-rule (1) and to admit his own liability to indemnify the party against whom such award is made for any compensation recovered from him:

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(5) In any proceeding in which a notice has been served on any person under sub-rule (1) or sub-rule (3) the Commissioner shall, if he awards compensation, record in his judgment a finding in respect of each of such persons, whether he is or is not liable to indemnify any of the opposite parties, and shall specify the party, if any whom he is liable to indemnify.

40. Procedure in connected cases.—(1) Where two or more cases pending before a Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned, be heard simultaneously.

(2) Where action is taken under sub-rule (1) the evidence bearing on the common issue or issues shall be recorded on the record of one case, and the Commissioner shall certify under his hand on the record on any such other case, the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and if they were present, of cross-examining the witnesses.

41. Certain provisions of Code of Civil Procedure, 1908, to apply.—Save as otherwise expressly provided in the Act or these Rules the following provisions of the First Schedule to the Code of Civil Procedure, 1908, namely, those contained in Order V, Rules 9 to 13 and 15 to 30; Order IX; Order XIII, Rules 3 to 10; Order XVI, Rules 2 to 21; Order XVII; and Order XXIII, Rules 1 and 2, shall apply to proceedings before Commissioners, in so far as they may be applicable thereto:

Provided that—

- (a) for the purpose of facilitating the application of the said provisions the Commissioner may construe them with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before him;
- (b) the Commissioner may, for sufficient reasons, proceed otherwise than in accordance with the said provisions if he is satisfied that the interests of the parties will not thereby be prejudiced.

42. Provision regarding signature of forms.—Any form other than a receipt for compensation, which is by these rules required to be signed by a Commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

43. Apportionment of compensation among dependants.—The provisions of this Part, except those contained in rules 26, 27 and 39 shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among the dependants of a deceased workman.

PART VI
TRANSFER

44. **Transfer for report.**—(1) A Commissioner transferring any matter to another Commissioner for report in accordance with sub-section (2) of section 21 shall, along with the documents referred to in that sub-section, transmit to such other Commissioner a concise statement in the form of questions for answer of the matter on which report is required.

(2) A Commissioner to whom a case is so transferred for report shall not be required to report on any question of law.

45. **Transmission of money.**—Money transmitted by one Commissioner to another in accordance with sub-section (2) of section 21 shall be transmitted either by remittance transfer receipt, or by money order or by messenger, as the Commissioner transmitting the money may direct.

PART VII
APPOINTMENT OF REPRESENTATIVES

46. **When representatives must be appointed.**—Where any party to a proceeding is under the age of 15 years or is unable to make an appearance, the Commissioner shall appoint some suitable person, who consents to the appointment, to represent such party for the purposes of the proceeding.

47. **When new representative to be appointed.**— If the Commissioner considers that the interests of any party for whom a representative has been appointed under rule 46 are not being adequately protected by the representative or if a person appointed to act as representative dies or becomes incapable of acting, or otherwise ceases to act as such, the Commissioner shall appoint in his place another person who consents to the appointment.

PART VIII
RECORD OF MEMORANDA OF AGREEMENT

48. **Form of memorandum.**—Memoranda of agreement sent to the Commissioner under sub-section (1) of section 28 shall, unless the Commissioner otherwise directs, be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form K or Form L or Form M, as the case may be.

49. **Procedure where Commissioner does not consider that he should refuse to record memorandum.**—(1) On receiving a memorandum of agreement, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice in writing in Form N to the parties concerned that in default of objections he proposes to record the memorandum on the date so fixed:

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard he considers that it ought not to be recorded:

Provided that the issue of a notice under sub-rule (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties present of his decision and of the reasons therefor, and, if any party desiring the memorandum to be recorded is not present, he shall send information to that party in Form O.

50. Procedure where Commissioner considers, he should refuse to record memorandum.—(1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same he shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and shall inform such party or parties and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present a written notice shall be sent to them in Form P or Form Q, as the case may be and the date fixed in such notice shall be not less than seven days after the date of the issue of the same.

(3) If on the date fixed under sub-rule (1) the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to record the same, the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with rule 49.

(4) If, on the date so fixed, the Commissioner refuses to record the memorandum, he shall send notice in Form O to any party who did not receive information under sub-rule (1).

51. Procedure on refusal to record memorandum.—(1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reason for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payments of a lump sum, and the Commissioner considers the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as filed in the agreement he shall record his estimate of the probable duration of the disablement of the workman.

52. Registration of memorandum accepted for record.—In recording a memorandum of agreement, the Commissioner shall cause the same to be entered in a register in Form R and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms, namely:—

“This memorandum of agreement bearing Serial No.....of 20..... in the register has been recorded this..... day of.....

(Signature)

Commissioner.”

FORM A

[See rule 6 (1)]

DEPOSIT OF COMPENSATION FOR FATAL ACCIDENT

[Section 8 (1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs. is hereby presented for deposit in respect of injuries resulting in the death of the workman, whose particulars are given below, which occurred on

Name

Father's Name

(Husband's name in case of married woman and widow.)

Caste.....

Local address

Permanent address

His/Her monthly wages are estimated at Rs..... He/ She was over/ under the age of 15 years at the time of his/her death.

2. The said workman had, prior to the date of his/her death, received the following payments, namely:—

Rs. on Rs. on

Rs. on Rs. on

Rs. on Rs. on

amounting in all to Rs.....

3. An advance of Rs has been made on account of compensation to being his/her dependant.

4. *I do not desire to be made a party to the proceedings for distribution of the aforesaid compensation.

Dated

..... Employer.

*An employer desiring to be made a party to the proceedings should strike out the words "do not".

FORM AA

[See rule 6 (1)]

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENT TO A WOMAN OR PERSON UNDER LEGAL DISABILITY

[Section 8 (1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs is hereby presented for deposit in respect of injuries sustained by..... residing at on20.... resulting in the loss of/temporary disablement. His/Her monthly wages are estimated at Rs. He/She was over/under the age of 15 years at the time of the accident.

2. The said injured workman has prior to the date of the deposit received the following half- monthly payments, namely:—

Rs. on Rs. on

Rs. on Rs. on

Rs. on Rs. on

Dated.....

..... Employer.

FORM B

(See rule 6)

RECEIPT FOR COMPENSATION

[Deposited under section 8 (1) of the Workmen's Compensation Act, 1923]

Book No. Receipt No.....

Register No.

Depositor Deceased or injured workman

Date of deposit

Sum deposited Rs

.....
Commissioner.**FORM C**

(See rule 6)

STATEMENT OF DISBURSEMENTS

[Section 8 (4) of the Workmen's Compensation Act, 1923]

Serial No.

Depositor

Date20.....

Amount deposited.....

Amount deducted and repaid to the employer under the proviso to section 8 (1)

Funeral expenses paid

Compensation paid to the following dependants :

Name	Relationship
.....
.....

Total —

Dated

.....
Commissioner.**FORM D**

(See rule 9)

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENTS, OTHER THAN TO A WOMAN OR PERSON UNDER LEGAL DISABILITY

[Section 8 (2) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs. is hereby presented for deposit in respect of permanent/temporary injuries sustained by residing at which occurred on.....20.....

Dated

.....
Employer.

FORM E

(See rule 9)

RECEIPT FOR COMPENSATION

[Deposited under section 8 (2) of the Workmen's Compensation Act, 1923]

Book No. Receipt No.
Register No.
Depositor
In favour of
Date of deposit
Sum deposited Rs.

Commissioner.

FORM EE

(See rule 11)

REPORT OF FATAL ACCIDENTS

To

Sir,

I have the honour to submit the following report of an accident which occurred on..... (date) at (here enter details of premises) and which resulted in the death of the workman/workmen of whom particulars are given in the statement annexed.

- 2. The circumstances attending the death of the workman/workmen were as under :
 - (a) Time of the accident
 - (b) Place where the accident occurred
 - (c) Manner in which deceased was/were employed at time
 - (d) Cause of the accident
 - (e) Any other relevant particulars

I have etc.

(Signature and designation of person making the report.)

Statement

Name	Sex	Age	Nature of employment	Full postal address

FORM F

(See rule 20)

APPLICATION FOR COMPENSATION BY WORKMAN

To
The Commissioner for Workmen's Compensation,

..... residing at.....applicant,

Versus

.....residing at.....opposite party.

It is hereby submitted that—

(1) the applicant, a workman employed by (a contractor with) the opposite party on the day of 20....., received personal injury by accident arising out of and in the course of his employment.

The cause of the injury was (here insert briefly in ordinary language the cause of the injury).....

(2) The applicant sustained the following injuries, namely:—

(3) The monthly wages of the applicant amounts to Rs

The applicant is over/under the age of 15 years.

- * (4) (a) Notice of the accident was served on the day of
- (b) Notice was served as soon as practicable.
- (c) Notice of the accident was not served (in due time) by reason of

(5) The applicant is accordingly entitled to receive—

(a) half-monthly payment of Rs.....from the..... day of 20..... to

(b) a lump sum payment of Rs

(6) The applicant has taken the following steps to secure a settlement by agreement, namelybut it has proved impossible to settle the questions in dispute because.....

* You are therefore requested to determine the following questions in dispute, namely:—

- (a) whether the applicant is a workman within the meaning of the Act;
- (b) whether the accident arose out of or in the course of the applicant's employment;
- (c) whether the amount of compensation claimed is due, or any part of that amount;
- (d) whether the opposition party is liable to pay such compensation as is due;
- (e) etc. (as required).

Dated

.....
Applicant.

*Strike out the clauses which are not applicable.

FORM G

(See rule 20)

APPLICATION FOR ORDER TO DEPOSIT COMPENSATION

To

The Commissioner for Workmen's Compensation,

..... residing at applicant,

Versus

..... residing at..... opposite party.

It is hereby submitted that—

- (1) a workman employed by (a contractor with) the opposite party on the day of 20....., received personal injury by accident arising out of and in the course of his employment resulting in his death on the day of 20....., The cause of the injury was (here insert briefly in ordinary language the cause of the injury)
- (2) The applicant(s) is/are dependant(s) of the deceased workman being his
- (3) The monthly wages of the deceased amounts to Rs The deceased was over/under the age of 15 years at the time of his death.
- * (4) (a) Notice of the accident was served on the day of
- (b) Notice was served as soon as practicable.
- (c) Notice of the accident was not served (in due time) by reason of
- (5) The deceased before his death received as compensation the total sum of Rs. The applicant(s) is/are accordingly entitled to receive a lump sum payment of Rs

You are therefore requested to award to the applicant the said compensation or any other compensation to which he may be entitled.

Dated

.....
Applicant.

Strike out the clauses which are not applicable.

FORM H

(See rule 20)

APPLICATION FOR COMMUTATION

[Under section 7 of the Workmen's Compensation Act, 1923]

To The Commissioner for Workmen's Compensation,

.....

..... residing at applicant,

Versus

..... residing at opposite party.

It is hereby submitted that —

- (1) The applicant/opposite party has been in respect of half-monthly payments from to in respect of temporary disablement by accident arising out of and in the course of his employment.
- (2) The applicant is desirous that the right to receive half-monthly payments should be redeemed.
- (3) (a) The opposite party is unwilling to agree to the redemption of the right to receive half-monthly payments.
- (b) The parties have been unable to agree regarding the sum for which the right to receive half-monthly payments should be redeemed.

You are therefore requested to pass orders —

- (a) directing that the right to receive half-monthly payments should be redeemed,
- (b) fixing a sum for the redemption of the right to receive half-monthly payments.

Dated

.....
Applicant.

FORM J

(See rule 39)

NOTICE

Whereas a claim for compensation has been made by..... applicant, against..... and the said..... has claimed that you are liable under section 12 (2) of the Workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, you are hereby informed that you may appear before me on and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party. In default of your appearance you will be deemed to admit the validity of any award made against the opposite party and your liability to indemnify the opposite party for any compensation recovered from him.

Dated

.....
Commissioner.

FORM JJ

(See rule 39)

NOTICE

Whereas a claim for compensation has been made by applicant, againstand the said..... has claimed that.....is liable under section 12(2) of the Workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, and whereas the said..... on notice served has claimed that youstand to him in the relation of a contractor from whom the applicantcould have recovered compensation you are hereby informed that you may appear before me on.....on contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party In default of your appearance you will be deemed to admit the validity of any award made against the opposite party.....and your liability to indemnify the opposite party for any compensation recovered from him.

Dated

.....
Commissioner.

FORM K

(See rule 48)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 20.... personal injury was caused to.....residing at..... by accident arising out of and in the course of employment in The said injury has resulted in temporary disablement to the said workman whereby it is estimated that he will be prevented from earning more than of his previous/any wage for a period of..... months. The said workman has been in receipt of half-monthly payments which have continued from the

..... day of.....20 until the day of.....20..... amounting to Rs. in all. The said workmen's monthly wages are estimated at Rs..... The workman is over the age of 15 years/will reach the age of 15 years on

It is further submitted that the employer of said workman has agreed to pay, and the said workman has agreed to accept, the sum of Rs in full settlement of all and every claim under the Workmen's Compensation Act, 1923, in respect of all disablement of a temporary nature arising out of the said accident, whether now or hereafter to become manifest. It is, therefore, requested that this memorandum be duly recorded.

Dated.....

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

Note.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt to be filled in when the money has actually been paid

In accordance with the above agreement, I have this day received the sum of Rs.

Revenue Stamp

.....Workman.

Dated.....

The money has been paid and this receipt signed in my presence.

.....Witness.

Note.—This form may be varied to suit special cases, e.g., injury by occupational diseases, agreement when workman is under legal disability, etc.

FORM L

(See rule 48)

MEMORANDUM ON AGREEMENT

It is hereby submitted that on the..... day of 20..... personal injury was caused to residing atby accident arising out of and in the course of his employment in The said injury has resulted in permanent disablement to the said workman of the following nature, namely:—

.....
The said workman's monthly wages are estimated at Rs.

The workman is over the age of 15 years/will reach the age of 15 years on The said workman has, prior to the date of this agreement received the following payments namely:—

- Rs. on. Rs. on
- Rs. on. Rs. on
- Rs. on. Rs. on

It is further submitted that the employer of the said workman, had agreed to pay, and the said workman has agreed to accept the sum of Rs. in full settlement of all and every claim under the Workmen's Compensation Act, 1923, in

respect of the disablement stated above and all disablement now manifest. It is, therefore, requested that this memorandum be duly recorded.

Dated

Signature of employer

Witness

Signature of workman

Witness

Note.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt to be filled in when the money has actually been paid

In accordance with the above agreement, I have this day received the sum of Rs

Revenue
Stamp

.....Workman.

Dated

The money has been paid and this receipt signed in my presence.

.....Witness.

Note.—This form may be varied to suit special cases, e.g., injury by occupational disease, agreement when workman is under legal disability, etc.

FORM M

(See rule 48)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of20.... personal injury was caused to residing at by accident arising out of and in the course of employment in The said injury has resulted in temporary disablement to the said workman, who is at present in receipt of wages amounting to Rs. per month/ no wages. The said workman's monthly wages prior to the accident are estimated at Rs The workman is subject to a legal disability by reason of.....

It is further submitted that, the employer of the workman has agreed to pay and on behalf of the said workman has agreed to accept half-monthly payments at the rate of Rs. for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the half-monthly payments may be varied in accordance with the provisions of the said Act, on account of an alteration in the earnings of the said workman during disablement. It is further stipulated that all rights of commutation under section 7 of the said Act are unaffected by this agreements. It is, therefore, requested that this memorandum be duly recorded.

Dated

Signature of employer.

Witness

Signature of workman

Witness

Note.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt to be filled in when the money has actually been paid

In accordance with the above agreement, I have this day received the sum of Rs.....

Revenue Stamp

.....Workman.

Dated

The money has been paid and this receipt signed in my presence.

.....Witness.

Note.—This form may be varied to suit special cases, e.g., injury by occupational disease, etc.

FORM N

(See rule 49)

Whereas an agreement to pay compensation is said to have been reached between and and whereashas/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, notice is hereby given that the said agreement will be taken into consideration on20...., and that any objections to the registration of the said agreement should be made on that date. In the absence of valid objections it is my intention to proceed to the registration of the agreement.

Dated

.....
Commissioner.

FORM O

(See rules 49 and 50)

Take notice that registration of the agreement to pay compensation is said to have been reached between you and.....on the day of.....20... has been refused for the following reasons, namely:—

.....
.....

Dated.....

.....
Commissioner.

FORM P

(See rule 50)

Whereas an agreement to pay compensation is said to have been reached between and and whereashas/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely:—

.....
.....
an opportunity will be afforded to your showing of cause on20...., why the said agreement should be registered. If no adequate cause is shown on that date registration of the agreement will be refused.

Dated.....

.....
Commissioner.

