

SIXTH REPORT

STANDING COMMITTEE ON LABOUR & WELFARE (1994-95)

(TENTH LOK SABHA)

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1994

20 DEC 1994

Presented to Lok Sabha on.....

Laid in Rajya Sabha on.....

20 DEC 1994



LOK SABHA SECRETARIAT
NEW DELHI
September, 1994/Asvina, 1916 (Saka)

Price: Rs. 10.00

LC
328-3657 R
N4.6;3

PARLIAMENT LIBRARY
~~Central Govt. Publication~~
Acc. No. PC. 90951(3)
Date --- 2/1/95 ---

© 1994 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and Printed by the Manager, P.L. Unit, Govt. of India Press, Minto Road, New Delhi-110002.

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE.....	(iii)
INTRODUCTION.....	(v)
REPORT OF THE COMMITTEE.....	1

ANNEXURES

(I) Minutes of the Eleventh Sitting held on 26 August, 1994.....	6
(II) Minutes of the Twelfth Sitting held on 26 September, 1994	9

APPENDIX

Summary of Recommendations/Conclusions	12
--	----

COMPOSITION OF THE STANDING COMMITTEE ON
LABOUR AND WELFARE (1994-95)

Shrimati Chandra Prabha Urs — *Chairperson*

MEMBERS

Lok Sabha

2. Shri D.K. Naikar
3. Shri S.B. Thorat
4. Shri Bheru Lal Mecna
5. Shri K. Pradhani
6. Shrimati Kamala Kumari Karreodula
7. Kumari Padmasree Kudumula
8. Shri Siddappa Bhimappa Nyamagoudor
9. Dr. P. Vallal Peruman
10. Dr. Chinta Mohan
11. Shri A. Prathap Sai
12. Shri B. Akbar Pasha
13. Shri Ramesh Chennithala
14. Shri Gaya Prasad Kori
15. Shri Dattatraya Bandaru
16. Shri Chandubhai Deshmukh
17. Prof. Rasa Singh Rawat
18. Shri Ram Narain Berwa
19. Shri Shiv Raj Singh Chauhan
20. Shri Swami Sureshanand
21. Shri Mahendra Baitha
22. Shri Vishwanath Pratap Singh
23. Shri Govinda Chandra Munda
24. Shri Ajoy Mukhopadhyay
25. Shri Rup Chand Murmu
26. Shri Vishwa Nath Shastri
27. Dr. R. Sridharan
28. Shri Ram Sagar
29. Shri Yaima Singh Yumnam
30. Shri Satyendra Nath Brohmo Chaudhury

Rajya Sabha

31. Maulana Obaidulla Khan Azmi
- *32. Shri N.E. Balaram
33. Shrimati Vidya Beniwal
34. Shri Kanak Mal Katara
35. Shri Gundappa Korwar
36. Shri S. Muthu Mani
37. Shri Kameshwar Paswan
- **38. Shri Narendra Pradhan

* Expired on 16-7-1994.

** Ceased to be a member of the Committee w.e.f. 25.8.1994.

(iv)

39. Shri Ram Ratan Ram
40. Shri Jibon Roy
41. Shri Sushil Barongpa

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri Satish Loomba — *Deputy Secretary*
3. Shri R.S. Misra — *Assistant Director*

INTRODUCTION

I, the Chairperson of the Standing Committee on Labour and Welfare (1994-95) having been authorised by the Committee to submit the Report on their behalf, present this Sixth Report on the Workmen's Compensation (Amendment) Bill, 1994 of the Ministry of Labour.

2. The Bill was introduced in Rajya Sabha on 13 June, 1994. It was referred to the Committee by Hon'ble Speaker, Lok Sabha under Rule 331E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee considered the Bill clause by clause at their sitting held on 26 August, 1994. The Report was considered and adopted by the Committee on 26 September, 1994.

4. The Committee wish to express their thanks to the officers of the Ministry of Labour for placing before them the detailed written notes on the subject and for furnishing the information the Committee desired in connection with the examination of the Bill.

NEW DELHI;
September, 1994

Asvina, 1916 (Saka)

CHANDRA PRABHA URS,
Chairperson,
Standing Committee on Labour
and Welfare.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1994

REPORT

The Workmen's Compensation Act, 1923 applies to certain railway servants and persons employed in factories, mines, construction works, mechanically propelled vehicles and other hazardous occupations specified in Schedule-II to the Act. The Act provides for payment of compensation to the workmen or their dependants in the case of employment injury including occupational diseases resulting in disablement or death. Based on the 62nd and 134th reports of the law Commission of India and certain suggestion received from the State Governments, it has been proposed to amend the Act. On the basis of the recommendations made by the law Commission of India in its 62nd Report, it is proposed to extend the provisions of the Act to masters, seamen and other members of crews of ships, and captains and other members of crews of aircrafts and also to the drivers, helpers and other workmen employed in connection with a motor vehicle and sent for work abroad and workmen recruited by companies and sent for work abroad provided the ship, aircraft, motor vehicle, as the case may be, is registered in India.

2. The Committee further note that the rates of compensation under the Act were last revised in 1984. Keeping in view the general rise in prices and also the recommendations of the Law Commission, it has been proposed to enhance the minimum rates of compensation in the case of death and total disablement. The Government have also proposed to introduce provision for facilitating migrant workmen to file compensation claims before the Commissioners having jurisdiction over the area where they or their dependants ordinarily reside. Provision for transfer of compensation from one Commissioner to another has also been made.

3. It has been further specified that certain categories of persons including the persons employed in mechanised harvesting and threshing operations, spraying and dusting of insecticides and pesticides in agricultural operations employed for outdoor duties in newspaper establishments etc. are being added in Schedule II to the Act.

4. The Committee took up the Bill for clause by clause consideration at their sitting held on 26.8.94. The observations of the Committee in regard to changes recommended in the Bill are given in the succeeding paragraphs.

Section 2(1) (n)—Definition

5. As per Section 2(1)(n) of the Workmen's Compensation Act, 1923, a 'Workman' has been defined as under:—

Workman' means any person (Other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in Section 3 of the Indian Railways Act, 1890 (9 of 1890) 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) employed in any such capacity as is specified in Schedule II.

6. The Committee note that by virtue of the above definition casual labours and contract labourers are not covered under the Workmen's Compensation Act, 1923 for getting compensation in case of a personal injury caused by an accident arising out of and in the course of employment. The Committee, however, note that casual workers and contract labourers are also exposed to the same hazardous risk as the regular workers but the employers are not liable to pay compensation to these workers in case of accidents. The Committee feel that the definition under Section 2 of the Act may be amended so as to bring casual workers and contract labourers also within the ambit of the Act. The Committee, therefore, recommend that the words "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" may be deleted from the definition of the Workman in Section 2(1)(n) of the Workmen's Compensation Act, 1923 so as to do away with the existing distinction between the casual and regular employees in the matter of payment of compensation.

7. The Committee also desire that in Schedule II of the Act all the exceptions applying to clerical staff/persons employed in clerical work/capacity wherever occurring, be done away with. In this connection, the Committee desire that an explanation may also be specifically added to the effect that any employee in an establishment, who is not specifically employed in hazardous employment specified in Schedule II of the Act, shall also be deemed to be 'Workman' for the purpose of the Act if his nature of duty is such that he is required to go to such a place and get exposed to the same hazard as those posted in it.

Section 4 — Revision of rates of Compensation

8. Section 4 (1) of the Workmen's Compensation Act, 1923 provides that 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 forty per cent of the monthly wages of the injured workman multiplied by the relevant factor; |
| | or |
| | an amount of twenty thousand rupees whichever is more; |
| (b) Where permanent total disablement result from the injury | an amount equal to fifty per cent of the monthly wages of the injured workman multiplied by the relevant factor; |
| | or |
| | an amount of twenty-four thousand rupees whichever is more; |

Explanation I— For the purpose of clause (a) and clause (b) "relevant factor" in relation to a workman 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 workman on his last birthday immediately preceding the date on which the compensation fell due.

Explanation II— Where the monthly wages of a workman exceed one thousand rupees, his monthly wages for the purposes of clause (a) and clause (b) shall be deemed to be one thousand rupees only.

9. The law Commission in their 134th Report of the year 1989 had recommended that the minimum rates of compensation being paid to a Workman for injury by accident be enhanced to (i) Rs. 50,000/- in case of death and (ii) Rs. 60,000/- in case of permanent total disablement.

10. On the recommendation of Law Commission the Government have now proposed to amend the Section 4(1) of the Principal Act as follows:

"(i) In clause (a) for the words "forty per cent" and "twenty thousand rupees", the words "fifty per cent", and "fifty thousand rupees" shall respectively be substituted".

"(ii) In clause (b) for the words "fifty per cent" and "twenty four thousand rupees", the words "sixty per cent", and "sixty thousand rupees" shall respectively be substituted".

"(iii) in Explanation II, for the words 'one thousand rupees' at both

the places where they occur, the words "two thousand rupees" shall be substituted;

11. The Committee note that on the recommendations of the Law Commission in the year 1989, to enhance the minimum rates of compensation being paid to a workman, the Government has proposed to enhance the rates from Rs. 20,000/- to Rs. 50,000/- in case of death and from Rs. 24,000/- to Rs. 60,000/- in case of permanent total disablement. The Committee further note that the Law Commission had recommended for the revision of minimum rates of compensation in the year 1989 and keeping in view the general trend of rise in prices and their considerable increase since then, the Committee are of the opinion that the rates of compensation as proposed by the Government are inadequate in the present circumstances. The Committee, therefore, recommend that minimum rates of compensation, in case of death may be revised from Rs. 20,000/- to Rs.80,000/- and in case of permanent total disablement from Rs. 24,000/- to Rs. 90,000/-.

12. The Committee further note that the Government has proposed to increase the monthly wage limit of a workman from Rs. 1000/- to Rs. 2000/- in case of death or total permanent disablement to calculate the Compensation. The Committee feel that the wages of the workmen have gone high and by limiting the monthly wage to Rs. 2000/- in the calculation of compensation a large number of workers are unable to get higher benefit under the Act. The Committee, therefore, recommend that in view of the general trend of rise in prices and enhancement of the monthly wages of workmen, the Government should review this limit provided in Explanation II, Section 4(b) of the Act for calculation of the amount of compensation, at least once in two years.

Clause 4(c) Provision for Payment of Funeral Expenses

13. Under the Workmen's Compensation Act, 1923 there is no provision for payment of funeral expenses in respect of the workmen who dies due to industrial accidents. Based on the ESI Schemes and keeping in view the recommendations of the Law Commission, the Government have proposed to make a provision for payment of the funeral expenses. For this purpose the Government have inserted a new sub-clause in section 4 of the Bill, which is reproduced below:

"If the injury of the workman results in his death, the employer shall, in addition to the compensation under subsection (1), deposit with the Commissioner a sum of one thousand rupees for payment of the same to the eldest surviving dependant of the workman towards the expenditure of the funeral of such workman or where the workman 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".

14. The Committee note that the Government have proposed for payment of Rs. 1000/- as funeral expenses if the workman dies due to industrial accidents. While considering this as a right step for the welfare of Workmen, the Committee feel that Rs. 1000/- is not adequate to meet the funeral expenses. The Committee, therefore, recommend that the amount of funeral expenses be enhanced from Rs. 1000/- to Rs. 1500/-.

15. Subject to the above mentioned changes, the Committee approve the Workmen's Compensation (Amendment) Bill, 1994.

NEW DELHI;
September, 1994

Asvina, 1916 (Saka)

CHANDRA PRABHA URS,
Chairperson,
Standing Committee on
Labour and Welfare.

ANNEURE-I

**MINUTES OF THE ELEVENTH SITTING OF THE STANDING
COMMITTEE ON LABOUR AND WELFARE HELD ON 26.8.1994**

*The Committee met from 9.00 hrs. to 10.45 hrs. in Committee Room 'D'
Parliament House Annexe, New Delhi.*

PRESENT

Smt. Chandra Prabha Urs. — Chairperson

MEMBERS

Lok Sabha

2. Shri S.B. Thorat
3. Shri Bheru Lal Mccna
4. Smt. Kamla Kumari Karrcodula
5. Dr. P. Vallal Peruman
6. Shri B. Akbar Pasha
7. Prof. Rasa Singh Rawat
8. Shri Chandubhai Deshmukh
9. Shri Ram Narain Berwa
10. Shri Govinda Chandra Munda
11. Shri Ram Sagar

Rajaya Sabha

12. Shri Gundappa Korwar
13. Shri S. Muthu Mani
14. Shri Kameshwar Paswan
15. Shri Ram Ratan Ram
16. Shri Jibon Roy
17. Shri Sushil Barongpa

Secretariat

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri Satish Loomba — *Deputy Secretary*
3. Shri R.S. Misra — *Assistant Director*

Representatives of the Ministry of Labour

1. Shri S. Gopalan — *Secretary*
2. Shri M.N. Buch — *Additional Secretary*
3. Smt. Shashi Jain — *Joint Secretary*

Representatives of The Ministry of Welfare

1. Shri Mata Prasad — *Secretary*
2. Shri M.S. Pandit — *Joint Secretary*

Representative of The Ministry of Law & Justice

1. Dr. Raghubir Singh — *Joint Secretary & L.C.*

Clause by clause consideration of the Workmen's Compensation (Amendment) Bill, 1994.

1. At the outset the Chairperson welcomed the Members and representatives of the Ministry of Labour and Ministry of Law & Justice and invited their attention to the Workmen's Compensation (Amendment) Bill, 1994 referred to the Committee under Rule 331 E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

2. The Secretary, Ministry of Labour informed the Committee about the salient features of the Bill and the circumstances in which the Government had proposed amendments in the parent Act. The Committee then took up the Bill for clause by clause consideration. The amendments were read out and the Secretary, Ministry of Laobur resolved the queries raised by the Members, as described hereinafter.

3. In clause 4, regarding revision of rates of compensation, the Committee were informed by Secretary, Ministry of Labour that on the recommendation of the Law Commission in 1989, the Government had proposed to enhance the minimum amount of compensation from Rs. 20,000/- to Rs. 50,000/- in case of death and from Rs. 24,000/- to Rs. 60,000/- in case of permanent total disablement.

4. The Members were of the view that the rates of compensation were last revised in 1984 and the Law Commission had recommended for the revision of minimum rates of compensation in the year 1989. Keeping in view the general trend of rise in prices since 1989 the Committee felt that the proposed rates of compensation were inadequate in the present

circumstances. Hence the Committee desired that the minimum rates of compensation in case of death may be revised from Rs. 20,000/- to Rs. 80,000/- and in case of permanent total disablement from Rs. 24,000/- to Rs. 90,000/-.

5. The Secretary, Ministry of Labour further informed the Committee that there was no provision in the Workmen's Compensation Act, 1923 for payment of funeral expenses in respect of workmen who died due to industrial accidents. Based on the ESI Scheme and keeping in view the recommendations of the Law Commission, the Government has proposed for payment of Rs. 1,000/- as funeral expenses, if the workman dies due to industrial accidents. On this, the members expressed their satisfaction but felt that Rs. 1,000/- was inadequate to meet the funeral expenses. The Committee, therefore, desired that the proposed amount of funeral expenses in the Bill be enhanced from Rs. 1,000/- to Rs. 1,500/-.

6. Subject to the above mentioned changes, the Committee approved the Workmen's Compensation Bill, 1994.

7. The Chairperson thanked the officials of the Ministry of Labour and Ministry of Law and Justice for the assistance rendered by them to the Committee.

Thereafter, the witnesses from the Ministry of Labour withdrew and the Committee took up the Wakf Bill, 1993 for clause by clause consideration.

ANNEXURE-II

**MINUTES OF THE TWELFTH SITTING OF THE STANDING
COMMITTEE ON LABOUR AND WELFARE HELD ON 26
SEPTEMBER, 1994.**

The Committee met from 15.00 hrs. to 16.00 hrs. in Committee Room 'D' Parliament House Annexe, New Delhi.

PRESENT

Smt. Chandra Prabha Urs—*Chairperson*

MEMBERS

Lok Sabha

2. Smt. Kamla Kumari Karreodula
3. Shri Gaya Prasad Kori
4. Prof. Rasa Singh Rawat
5. Shri Ram Narain Berwa
6. Shri Mahendra Baitha
7. Shri Ajoy Mukhopadhyay
8. Shri Vishwa Nath Shastri
9. Shri Govinda Chandra Munda
10. Dr. R. Sridharan

Rajya Sabha

11. Shri Gundappa Korwar
12. Shri Ram Ratan Ram
13. Shri Jibon Roy

SECRETARIAT

1. Shri Satish Loomba—*Deputy Secretary*
2. Shri R.S. Misra—*Assistant Director*

REPRESENTATIVES OF THE MINISTRY OF LABOUR

1. Shri S. Gopalan—*Secretary*
2. Shri M. N. Buch—*Additional Secretary*
3. Smt. Shashi Jain—*Joint Secretary*

1. At the outset the Chairperson welcomed the Members and other Officers from the Ministry of Labour. She then apprised the Members that there were two Draft Reports before the Committee for consideration viz. (i) Draft Sixth Report on the Workmen's Compensation (Amendment) Bill, 1994; and (ii) Draft Seventh Report on Welfare of Beedi Workers. The Committee first took up the Draft Sixth Report on the Workmen's

Compensation (Amendment) Bill and approved the recommendations contained in the Report without any modifications.

2. Shri Jibon Roy, then moved his amendments to the Workmen's Compensation (Amendment) Bill, 1994. Hon'ble M.P. contended that Section 2 (1) (n) regarding definition of 'Workman' may be suitably amended and the casual labourers, contract labour and clerical staff also be brought within the ambit of Workmen's Compensation Act, 1923. He said that the casual workers and contract labourers are also engaged in the hazardous occupation in a factory but they are not covered under the definition of 'workman' in the Act. The Members were convinced with the views of Shri Jibon Roy and desired that the word "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" may be deleted from the definition of Workman in Section 2 (1) (n) so as to do away with the existing distinction between the casual and the regular employees in the matter of payment of compensation.

3. The Committee also desired that in Schedule-II of the Act, the words "clerical staff/clerical work" wherever occurring be deleted. In this connection, the Committee desired that a suitable explanation may be added to the effect that the employees in an establishment, who are not specifically employed in hazardous employment specified in Schedule II of the Act, shall also be deemed to be "Workman" for the purpose of the Act if their nature of duty is such that they are required to go to such a place and get exposed to the same hazard as those posted in it.

4. Shri Jibon Roy further desired that Explanation II of the Section 4 (i) may also be deleted from the Workmen's Compensation Act, 1923 which restricts the monthly wages of a workman to Rs. 1,000/- — in case of death or total permanent disablement for getting the compensation. He said that the minimum wages of the workman have gone high and by limiting the monthly wages to Rs. 1,000/- — a large number of employees have been deprived of the benefit of the Act. The Secretary, Ministry of Labour explained that the Government has already proposed to increase the monthly wage limit of a workman for getting compensation from Rs. 1,000/- to Rs. 2,000/- in case of death as well as total disablement (*vide* Section 4(1)(b) Explanation II of the Bill.)

The Members, however, opined that in view of the general trend of rise in prices and monthly wage of an employee, the Government should review this limit at least once in two years.

5. In the last, the Chairperson thanked the officials from the Ministry of Labour for the assistance given by them to the Committee. The Chairperson also directed the Secretariat to incorporate the above suggestions in the Draft Report.

6. The Committee then authorised the Chairperson to present/lay the Report in both Houses of Parliament in the light of above amendments.

As regards the Report on the welfare of Beedi Workers, the Committee decided to consider it in their next sitting.

The Committee then adjourned.

APPENDIX I

Summary of Recommendation/Conclusions

Sl. No.	Para No.	Summary of Recommendations/Conclusions
1	2	3
1	6	<p>The Committee note that by virtue of the above definition casual labourers and contract labourers are not covered under the Workmen's Compensation Act, 1923 for getting compensation in case of a personal injury caused by an accident arising out of and in the course of employment. The Committee however note that casual workers and contract labourers are also exposed to the same hazardous risk as the regular workers but the employers are not liable to pay compensation to these workers in case of accidents. The Committee feel that the definition under Section 2 of the Act may be amended so as to bring casual workers and contract labourers also within the ambit of the Act. The Committee, therefore, recommend that the words "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" may be deleted from the definition of the Workman in Section 2 (1)(a) of the Workmen's Compensation Act, 1923 so as to do away with the existing distinction between the casual and regular employees in the matter of payment of compensation.</p>
7		<p>The Committee also desire that in Schedule II of the Act all the exceptions applying to clerical staff/ persons employed in clerical work/capacity wherever occurring, be done away with. In this connection, the Committee desire that an explanation may also be specifically added to the effect that any employee in an establishment, who is not specifically employed in hazardous employment specified in Schedule II of the Act, shall also be deemed to be 'Workman' for the purpose of the Act if his nature of duty is such that</p>

1	2	3
		he is required to go to such a place and get exposed to the same hazard as those posted in it.
3	11	The Committee note that on the recommendations of the Law Commission in the year 1989, to enhance the minimum rates of compensation being paid to a workman, the Govt. has proposed to enhance the rates from Rs. 20,000/- to Rs. 50,000/- in case of death and from Rs. 24,000/- to Rs. 60,000/- in case of permanent total disablement. The Committee further note that the Law Commission had recommended for the revision of minimum rates of compensation in the year 1989 and keeping in view the general trend of rise in prices and their considerable increase since then, the Committee are of the opinion that the rates of compensation as proposed by the Government are inadequate in the present circumstances. The Committee, therefore, recommend that minimum rates of compensation, in case of death may be revised from Rs. 20,000/- to Rs. 80,000/- and in case of permanent total disablement from Rs. 24,000/- to Rs. 90,000/-.
4	12	The Committee further note that the Government has proposed to increase the monthly wage limit of a workman from Rs. 1,000/- to Rs. 2,000/- in case of death or total permanent disablement to calculate the compensation. The Committee feel that the wages of the workman have gone high and by limiting the monthly wage to Rs. 2,000/- in the calculation of compensation a large number of workers are unable to get higher benefit under the Act. The Committee, therefore, recommend that in view of the general trend of rise in prices and enhancement of the monthly wages of the workmen, the Government should review this limit provided in Explanation II, Section 4(b) of the Act for calculation of the amount of compensation, at least once in two years.
5	14	The Committee note that the Government have proposed for payment of Rs. 1000/- as funeral

1	2	3
		expenses if the workman dies due to industrial accidents. While considering this as a right step for the Welfare of Workmen, the Committee feel that Rs. 1000/- is not adequate to meet the funeral expenses. The Committee, therefore, recommend that the amount of funeral expenses be enhanced from Rs. 1000/- to Rs. 1500/-.
6	15	Subject to the above mentioned changes, The Committee approve the Workmen's Compensation (Amendment) Bill, 1994.
